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ABSTRACT

This book is intended for a wide audience of educators, students, public officials, and other persons who may want to know more about how and why education in New York State developed the way it did. The document examines the historical developments, events, and persons involved in the creation and organization of the Board of Regents -- the governing authority of New York's total educational enterprise including the State University. The book draws upon several studies and upon original documents, such as the early Journals of the State Legislature and the Minutes of the Board of regents, to develop this brief history. (Author/JR)

A Popular History of the Origins of

THE REGENTS OF THE UNIVERSITY OF THE STATE OF NEW YORK

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A Popular History of the Origins of

THE REGENTS OF THE UNIVERSITY OF THE STATE OF NEW YORK

By Bruce B. Detlefsen
Assistant to the Commissioner of Education

with a Foreword by
Ewald B. Nyquist
President of The University of The State of New York
and Commissioner of Education

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THE UNIVERSITY OF THE STATE OF NEW YORK

Regents of The University *(with years when terms expire)*

1984 JOSEPH W. MCGOVERN, A.B., J.D., L.H.D., LL.D., D.C.L., Litt.D., *Chancellor* . . . . . New York

1981 THEODORE M. BLACK, A.B., Litt.D., LL.D., Pd.D., *Vice Chancellor* . . . . . Sands Point

1978 ALEXANDER J. ALLAN, JR., LL.D., Litt.D. . . . . Troy

1987 CARL H. PFORZHEIMER, JR., A.B., M.B.A., D.C.S., H.H.D. . Purchase

1975 EDWARD M. M. WARBURG, B.S., L.H.D. . . . . New York

1980 JOSEPH T. KING, LL.B. . . . . Shelter Island

1981 JOSEPH C. INDELICATO, M.D. . . . . Brooklyn

1976 HELEN B. POWER, A.B., Litt.D., L.H.D., LL.D. . . . . Rochester

1979 FRANCIS W. MCGINLEY, B.S., J.D., LL.D. . . . . Glens Falls

1986 KENNETH B. CLARK, A.B., M.S., Ph.D., LL.D., L.H.D., D.Sc. Hastings on Hudson

1983 HAROLD E. NEWCOMB, B.A. . . . . Owego

1988 WILLARD A. GENRICH, LL.B., L.H.D. . . . . Buffalo

1982 EMLYN I. GRIFFITH, A.B., J.D. . . . . Rome

1977 GENEVIEVE S. KLEIN, B.S., M.A. . . . . Bayside

1981 WILLIAM JOVANOVICH, A.B., LL.D., Litt.D., L.H.D. . . . . Briarcliff Manor

President of The University and Commissioner of Education
EWALD B. NYQUIST

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In Memoriam

DANIEL J. PRATT

Assistant Secretary to the New York State Board of Regents

1866-1884

With the hope that he would not have been offended by my sometimes irreverent elaboration upon his painstaking research a century ago.

B.B.D.

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FOREWORD

On May 1, 1784, only months after America had achieved its independence and three years before the Federal Constitution was even drafted, the first leaders of New York State established a system of education incorporated by an act of the Legislature as the Regents of the University of the State of New York. The University of the State of New York, not to be confused with the State University of New York, our operating university, is now the oldest continuous state educational agency in America. It is unique in the Union. It comprises all the private and public colleges and universities in the State, as well as public and nonpublic schools, museums, libraries, historical societies and other kinds of educational institutions and organizations which collectively enrich the lives of millions of persons, not only in New York, but in other states and countries as well. Regents over the years have included some of the most distinguished members of the State and Nation, among them Alexander Hamilton, John Jay, De Witt Clinton, Grover Cleveland, Theodore Roosevelt and Washington Irving. And yet, despite this long and rich heritage, the structure and purposes of the system of education we have in New York are not widely understood.

There have been several excellent studies of the origins and evolution of the University of the State of New York. This book draws upon these studies and upon such original documents as the early Journals of the State Legislature and the Minutes of the Board of Regents. In this sense, the book is a scholarly work. However, it was not written specifically for scholars. Rather, it is intended for a wide audience, including educators, students, public officials and other persons who, for whatever reason, may want to know more about how and why education in New York State developed in the way it did. The account is readable, entertaining, sometimes quite amusing, and—above all—highly informative.

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This Nation and State are now preparing for Bicentennial observances in 1976 and 1977, respectively. The University of the State of New York will commemorate its 200th anniversary in 1984. It is therefore an appropriate and fitting time for all of us to refresh our memories, reinterpret our heritage, and renew our faith in the seminal ideas that influenced and shaped the development of our governmental and educational institutions. These two kinds of institutions, as this book clearly shows, have a calculated interdependence. But, as the book also points out, there are also honorable "spaces in our togetherness."

The governing authority of New York's total educational enterprise is the Board of Regents, fifteen lay men and women, each elected by a joint resolution of both houses of the Legislature, for a seven-year term. The Regents bring different points of view and backgrounds to bear on educational issues, are responsible for determining the State's educational policies, and are authorized to establish Rules and Regulations which will carry into effect the laws of the State relating to education. The Executive Officer of the Regents and the executive head of the State's educational system is the State Commissioner of Education. The Commissioner is appointed by the Regents and serves at their pleasure. He has no contract, he has no tenure, and his appointment is not political. It is the responsibility of the Commissioner to carry out the provisions of the Education Law and the Rules and policies of the Regents. Under this arrangement, the Commissioner proposes, the Regents legislate, and the Commissioner executes.

There are many advantages to this pattern. It lodges in one agency—the Regents—the authority to plan, coordinate, supervise and evaluate all of the educational resources of a gifted State, wisely and efficiently; it provides protection against political partisanship and vested interests, while through its lay Board of Regents, it acts as a conscience of education and serves as a bridge between the Department and the public, interpreting each to the other. It furnishes an instrument for uniting common interests and bridging differences in the diversity of education; it can identify priorities in educational needs and interpret them with high public visibility; it can provide a necessary balance of

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strengths within an enlarging three-way federal-state-local partnership and furnish the leadership for creative interplay among them.

This educational governance arrangement was not arrived at without a great deal of effort on the part of many people, and the University of the State of New York did not attain the protective autonomy of constitutional status until 1895. Unfortunately, it is easy to take the structure of our educational system for granted. However, just as the democratic processes in the overall structure of government must be continually reassessed, so, too, should we continue to ask what we want our educational institutions to do. Change will often be warranted. But those traditions that prove to be a continuing source of strength must be preserved and not changed—to borrow from Thomas Jefferson—"for light and transient causes."

Ewald B. Nyquist

President of the University and
Commissioner of Education

March 1975

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INTRODUCTION

WHO EVER THOUGHT TO INVENT A BOARD OF REGENTS?

Tradition has it that the Regents of the University of the State of New York were thought up by Alexander Hamilton and that Hamilton was inspired by the Holy Roman Empire and the Catholic Church. Much as regents over the years have liked to think that one of the nation's founding fathers sired them, too, Hamilton did not invent the board of regents. The board was created by an act of the New York State Legislature that took effect on May 1, 1784. Hamilton was added to it seven months later.

This is not to take away from Hamilton as one of the most important contributors to what the regents did during their formative years and what they went on to become during the next two centuries.

However, the regents were the offspring of an odd-lot assortment of young turks and Colonel Blimps who had conflicting ideas about what they were trying to create. And the board was conceived even before the American Revolution in a middling colony not noted for educational attainments and divided into opposing factions that pitted loyalists against patriots, sectarians against dissenters, manor lords against small farmers, merchants against mechanics, and urbanites against apple-knockers.

New Yorkers are heirs to two distinct educational traditions that took a long time to mesh.

During the period of Dutch rule, common schools were founded in practically every settlement from Breuckelen (Brooklyn) to Beverwyck (Albany). These schools were open to all children—girls as well as boys, poor as well as rich—and were

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supported by a combination of grants from the Dutch West India Company, taxes and tuition (except for the indigent). Most teachers were laymen. But they were required to perform church-related duties as choirmasters, catechists, comforters of the sick and even grave diggers in addition to instructing their pupils for six to nine hours a day, six days a week. (Not all teachers managed to cope with the strain. The name of New Amsterdam's first school master, Adam Roelantsen, in the 1630's, turns up in more court records than school records. He was sued for slander five times and was later convicted of adultery and sentenced to a public flogging. However, the sentence was postponed because of the bitter winter that year, and Roelantsen disappeared.) The three R's that constituted the Dutch curriculum were reading, 'riting and religion, with special stress on religion, and 'rithmetic was added only sometimes. In general, the children completed a prescribed course of study in three years and then went to work, usually at about the age of 12.

The Dutch showed no interest in higher education. And they never contemplated creating a colony-wide governing body, such as a board of regents, to manage educational affairs. Rather, they left control of their schools to the shared authority of civil officials and Dutch Reformed clergymen in each village.

By contrast, the predominantly Anglican ruling class that came to power after the British seized the colony in 1664 did nothing to encourage common schooling, except in a few isolated instances, for fear that widespread learning would lead to dangerous thinking about politics and religion. Dutch schools survived, especially in rural Upstate New York. But their influence was diminished. The few well-educated people in New York relied upon tutors, scattered private and church schools, and eventually college study outside the colony, sometimes at Oxford or Cambridge and more often at Yale or the College of New Jersey (later Princeton) once this institution was founded in 1746.

By the mid-18th century, however, Anglican lay and clerical leaders decided to establish their own college to offset what they regarded as the pernicious influence of the Presbyterian-sponsored College of New Jersey and Yale, "a nursery of sedition, faction and republicanism," as Tory historian Thomas Jones

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called the college in Connecticut. The Anglican-controlled college was to be strategically situated in lower Manhattan, the seat of the provincial government, the center of commerce and the Anglican stronghold in the colony. And it was expected to produce a right-thinking, educated elite to fill the principal offices of church and state. The college was founded in 1754 under a royal charter and was aptly named King's College. After the Revolutionary War, however, it was overhauled and renamed Columbia, which had a patriotic ring since it was taken from an American war song, "Columbia, Columbia, to glory rise."

The supervision of King's College was entrusted from the start to government-designated trustees—then called college governors—rather than to college administrators or teachers alone. The original governors were 24 prominent residents of the city, plus officials representing the Crown and provincial and city governments and clergymen representing the Church of England and other major Protestant denominations. This outside supervision was taken so seriously that, in any given year, King's College had more governors than students. In fact, so few students were enrolled that when John Jay received his B.A. in 1764, the graduation ceremony was held for him and only one other student.

The second King's College president, Myles Cooper, drawing upon his days as a student and then chaplain at Oxford, proposed in 1774 to establish an even bigger governing board whose members would preside over all colleges in New York—King's as well as every other one founded from then on. And these colleges, linked to one another through the regents as a central authority, would form the first university in America. However, Cooper, a Tory to a tee, was chased out of the province by a Patriot mob in 1775 and therefore could not carry out his ambitious plan.

At the end of the Revolutionary War, New York State had no public schools at all, only a handful of private schools, and just the one college, King's, which had been shut since 1776.

The 1784 Legislature, meeting in the first peace-time session, included many members who had no interest in education, some who wanted the state to promote higher education for the

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privileged few, and others who thought New York should concentrate first on creating public schools for large numbers of children. The cause of higher education was championed primarily by James Duane. Conciliatory by nature and a firm believer in the rule of law, Duane had sought to keep peace between Tories and Whigs in pre-war New York and finally supported American independence only after exhausting every possibility for a compromise. In 1784, he held two political offices at the same time, serving as a state senator from New York City and as the first post-war mayor of the city. Duane was later to join Hamilton and Jay in the campaign for ratification of the Federal Constitution. The leading proponent of common schools was George Clinton, the state's enormously popular first governor who battled against ratification but went on to become the nation's vice president during the second term of Thomas Jefferson and the first term of James Madison.

Despite political, social, religious and other differences among them, New York's early leaders were able to devise a system for promoting education which, even though flawed at the outset, has not only held together for nearly 200 years but also became, in many ways, a model for the rest of the nation.

I think this is reason enough to ask, who ever thought to invent a board of regents? And why?

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LORD CORNBURY—CALIGULA IN COLONIAL NEW YORK

Before New York became a state, nearly all the governors appointed by Dutch and English rulers were invincibly indifferent to education in the colony, and understandably so. For the most part, the colonial governors in the 17th and 18th centuries had never before set foot in the New World, and they often went back to Europe in disgrace, or else died, after spending only a few years on the job. During their stay, they were usually caught in a trans-Atlantic cross-fire between the authorities in Amsterdam or London who had appointed them and increasingly self-assertive colonists. The early governors did what they could—which sometimes was not much—to balance off competing interests in a colony made up of merchants, farmers, and craftsmen from many European countries who spoke close to 20 different languages and belonged to almost as many different religious sects. And they ultimately stood judgment as successes or failures on the basis of how much money had been added to the coffers of the royal family or businessmen back home during their administration, and not how many children were being educated. No wonder promoting schools was an afterthought, if it was even thought of, for all but a few governors between 1626 and 1783, or from the arrival of Peter Minuit, the first, to the departure of James Robertson, the last.

During these 157 years, the scant support given to education by these governors was limited almost entirely to the six decades spanning the administrations of Peter Stuyvesant, the Dutch West India Company's last "director-general" in New Netherland, and Edward Hyde, commonly called Lord Cornbury, a kind of Caligula in Colonial New York. It was also in this period that royal governors acting on orders from England began to require all teachers to be licensed as a way of preventing the spread of dangerous ideas, such as home rule and papistry, which were interpreted loosely to mean virtually any challenge to the British crown or the Church of England.

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Stuyvesant helped to found elementary schools in and around New Amsterdam, although not without prodding from local officials whose cooperation he needed to raise new tax revenues. Moreover, his appeal for schooling three centuries ago sounds like the autocratic governor was more bent on taming kids than teaching them. In one of a series of "propositions" to the Council which had been empowered to advise him, Stuyvesant wrote in 1647:

"Whereas, by want of proper place, no school has been kept in three months, by which the youth is spoiled, so is proposed, where a convenient place may be adapted to keep the youth from the street and under a strict subordination."

In the 1680's, after the English takeover of the colony, Governor Thomas Dongan encouraged the creation of a Latin school in New York City. Dongan's motives were suspect, however, since he and the king who had appointed him, James II, were Roman Catholics, while New Yorkers were overwhelmingly Protestant. According to one of Dongan's Protestant successors, Richard Coote, the Earl of Bellomont, Dongan had intended to give a prized piece of land in lower Manhattan known as the King's Farm to the detested Society of Jesus. Writing to his superiors in 1699, Bellomont said:

"Mr. Attorney Generall assures me that in Colonel Dongan's time, he, to make his court to King James, desired this Farm...might be appropriated to the maintenance of a Jesuit school; but King James (bigot tho' he was) refused."

Bellomont also hatched a modest education plan of his own. He proposed to educate young Indians from Upstate areas in New York City, suggesting at a conference held in Albany in 1700 that:

"...I wish you would send two or three Sachems sonns out of each Nation to be kept at School at New York where I will take care to have them taught to write and read both English and Indian, and they shall be well clothed and dyeted at the King's charge and after three or four yeares that they are perfect in their writing & reading they shall return home to you and other boyes shall come in their places; by which means you will always have

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those among you that will understand English and will be serviceable to you upon many occasions."

Indian leaders declined the offer, however, advising the governor that:

"As to our children to be sent to New York to bee instructed to read and write, wee answer that wee are not master or disposers of them; that is a matter that relates to our wives, who are the sole disposers of their children while they are under age."

Political strife also influenced education in the late 17th century.

When James II was dethroned and replaced by William and Mary in the Glorious Revolution of 1688, New Yorkers rebelled against the autocratic rule of Captain Francis Nicholson, who was then in charge of the colony. Nicholson fled to England, and Jacob Leisler, a merchant of German descent, was chosen commander in chief by a hastily formed Committee of Safety. A representative assembly including Dutch artisans wrested political power from the established oligarchy made up of merchants and landlords who had been in the saddle since the English takeover in 1664. But William III sent a new governor with aristocratic leanings from England to replace Leisler. Leisler refused to yield to the new governor, even though he professed loyalty to William, and was arrested, convicted of treason and hanged. Leisler's short-lived administration left its mark on some schools, however. For example, in a petition to New York's commander in chief in 1691, Robert Ingolsby, the minister and elder of the Dutch church in Flatbush (Brooklyn) urged Ingolsby to prohibit Joannes Van Eckelen from ever teaching there again. Van Eckelen was identified in the petition as "always opposing the minister and church councel in their endeavors for supporting the Government for the Crown of England and inticing people to the party of Leisler contrary to all their admonitions..." In a second appeal a year later, the same petitioners told Ingolsby of another teacher being forced out of his job because he would not side with Leisler's supporters "in theire Rebellion." In both cases, the schoolmasters identified as being opposed to Leisler were given licenses to teach and their rivals were not.

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Despite the endeavors by Stuyvesant and some of his successors to regulate schooling in the colony, the first legislative act in behalf of education was not adopted until 1702, the year Cornbury became governor. The statute, "An Act for encouragement of A Grammar Free-School in the City of New York," authorized city officials to hire at public expense one teacher whose appointment would require the approval of the Anglican hierarchy or a representative of the Crown.

This law resulted from a more general proposal made by Cornbury in his opening address to the General Assembly in 1702. Cornbury had recommended "the erecting of public schools in proper Places." The governor did not specify what his reasons were for proposing public education in different parts of New York. But it is apparent from his track record that he believed schooling, if conducted under the right supervision, would go a long way toward accomplishing one of his major objectives, instilling in the people he governed his unswerving fidelity to the British monarchy and the Church of England. In this way, the colony would be spared the civil disorders he had lived through in Europe. But Cornbury was anything but a saint or exemplary citizen. He also wanted to gain a firm hand in New York in order to achieve a second goal, lining his own capacious pockets.

Before becoming governor, Cornbury had gained some notoriety as a turncoat cavalry officer, having been one of the first military men to desert King James and lead his soldiers over to the side of William of Orange in the Glorious Revolution. But nepotism later took Cornbury a big step higher. His cousin, Queen Anne, issued him a commission to govern both New York and New Jersey simultaneously. A not inconsiderable fringe benefit of the new job was that it enabled Cornbury to get away from creditors who were hounding him to pay debts he had run up in England.

Once in New York, Cornbury was startled to find the city in political disorder, which he soon attributed to Leislerians and Presbyterians.

"When I first left England to come into this Province," he told the Legislature in 1702, "I did resolve at my first arrival to call a

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General Assembly, hoping to find all things here in so good a posture that I should have nothing to do but to apply myself, with your assistance, to the putting this country into a posture of defence against the war, which I expected every day would break out. It was an extreme surprise to me to find this Province at my landing in such a convulsion as must unavoidably have occasioned its ruin if it had been suffered to have gone on a little longer."

In order to crush the lingering opposition to the aristocratic clique that he could count on to support his administration, Cornbury began a political purge soon after taking office in May. He ordered a new election for Assembly seats and ousted hold-over Leislerians whom his predecessors had appointed to the Council, the upper house of the Provincial Legislature. The new Council members included Caleb Heathcote and William Smith, sometimes called "Tangier Smith" because, as a young protege of Charles II, he once governed the "Royal City of Tangier in Africa." Heathcote and Smith went on to play leading roles in shaping the education law passed six months later.

Cornbury also sought to establish religious orthodoxy in the colony. Anglicans were outnumbered by Dutch Calvinists, the largest denomination, and Presbyterians. The governor feared the Presbyterians more, however, since many of them had moved from Connecticut to Long Island and had closer ties to New England than to New York and were, in Cornbury's mind, tainted by republicanism. As a result, he quickly set out to diminish their influence.

His first opportunity came in the summer of 1702, when a contagious disease—probably yellow fever—swept New York City. The governor took his family to Jamaica, on Long Island, and prevailed on the Presbyterian minister there to move out of his house and let Cornbury and his family live in it until the crisis had passed. At the time, the Anglicans had no church in Jamaica.

During his stay, Cornbury conspired with zealous Anglicans to take over the church, the minister's house and the church property. Between the morning and evening services one Sunday, a group of Anglicans abetted by Cornbury's servants moved into the church and refused to let the Presbyterians use it. The outraged Presbyterians tried to take the church by force, but

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were repulsed after a fight in which seats were torn up and several people were injured. Cornbury instructed the sheriff to make sure the Anglicans kept the church and the church property, and some of the Presbyterians were fined and imprisoned for the damage done during the fight.

By October, Cornbury was ready for the first legislative session since his arrival, telling the newly elected Assembly that he rejoiced to see the government now in the hands of "gentlemen whose constant fidelity to the Crown, and unwearied application to the good of their country, is so universally known."

In early November, New York City officials asked to have a bill introduced in the Assembly that would authorize the city to raise 50 pounds a year for the support of a "free school." The Assembly directed two of its members, Philip French and Stephen De Lancey, representatives from New York County, to prepare a bill. French had been chased out of the city before Cornbury's arrival for opposing partisans of Leisler. De Lancey was a merchant and descendant of a prominent Huguenot family. He had fled to America after the revocation of the Edict of Nantes and established himself financially through illegal trading with pirates and socially by marrying a daughter of New York's chief justice.

A bill was introduced on November 14 as "An Act to enable the Mayor, Aldermen and Commonality of the City of New York to raise Fifty Pounds per Annum, for seven years, towards maintaining a School Master, within the said City of New York." It was amended by an Assembly committee, submitted to the whole house and adopted on November 19. There is no Assembly record of the text, the amendments that were made to the original bill or the vote on the measure. However, it seems from subsequent debate in the Council that the Assembly version provided that "one able Skilfull and Orthodox person" would be chosen to teach children of English, Dutch and French families "in the Languages or other Learning usually taught in Grammar Schools," and that the city would raise 50 pounds each year to pay the schoolmaster. The 50 pounds were to be raised as a supplemental collection under a 1693 statute that authorized New York County plus Richmond, Queens and Westchester to tax their

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inhabitants, regardless of religious beliefs, to support one or two ministers in each of the four counties. The law had been urged by Anglicans, who intended that the taxes would support their ministers no matter which denomination had the most members.

The Assembly bill ran into strong opposition in the Council, not because of the provisions it already contained, but because of what the Council decided had been left out.

"Tangier" Smith was the chairman of the Council committee that considered the bill before it went to a vote by the full house. He reported to Cornbury that the bill should not be passed without the addition of a section stating "that no School master be permitted to come from England and to keep a school within this province without the License of the Right Reverend father in God, Henry Lord Bishop of London and that no person now there or that shall come from other parts be admitted to keep Schooll without your Lycense first obteined." The governor concurred, and Heathcote recommended the change to the Assembly.

But the Assembly balked and called for a special conference with the Council. The meeting was held on November 25. The Council sent four delegates, including Smith and Heathcote. The Assembly chose six, among them French and De Lancey. A compromise was reported the next day, with the Council basically getting what it wanted. The final version preserved the original Assembly plan for appointing one teacher and paying him 50 pounds raised by the act for supporting ministers. However, it also contained a provision that "such School Master shall, from time to time, as a Vacancy happens be Chosen and Recommended by the Common Council of the said City for the time being in order to be Lycensed and approved by the Right Honble the Bishop of London or the Governor or Commander in Chief of this province for the time being anything herein Contained to the contrary thereof in any ways notwithstanding."

With this dispute resolved, Cornbury recommended final approval by his superiors in London, and it was granted.

The school apparently did not open until 1704, since that is when Cornbury first licensed someone "to keep and teach school within the City of New York, and to instruct all children with

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whom you shall be intrusted in the English Latin and Greek tongues or Languages and also in the arts of writing and arithmetick." The teacher was George Muirson, who was on his way from England to teach in Albany when Cornbury headed him off in New York City. Cornbury originally wanted the teacher to be an Anglican clergyman because, he told the bishop of London, "it will be one good Step towards bringing up the youth in the Service of the Church of England." Muirson was a candidate for the Anglican priesthood but had not yet been ordained. Cornbury decided to put him in charge of the school anyway, explaining that "when he arrived here there were several youths going to be sent to Boston, which I thought would be better to prevent by stopping Mr. Muirson here." Muirson returned to England less than a year later. His successor, Andrew Clarke, was licensed in 1705 and taught about 30 students a year for the next several years. But the school was closed after the Legislature failed to renew the statute when it expired in 1709.

During his administration, the governor also licensed at least nine other teachers, including a dancing instructor. These teachers taught at other schools in the city as well as in Westchester, Queens, and Ulster counties. In addition, Cornbury proposed the founding of a college in New York City. He granted a portion of the King's farm—the same land Governor Dongan had hoped to give to the Jesuits—to Trinity Church. In 1703, the church records show, "It was unanimously agreed that the Rector and Churchwardens should wait upon my Lord Cornbury, the Gov'r to know what part thereof his Lordp. did design towards the College which his Lordp. designs to have built." But nothing further came of the proposal during Cornbury's stay.

After his first year or two in office, Cornbury showed almost no interest in education beyond making sure teachers were licensed. This was probably one by-product of his steadily deteriorating relations with the Legislature and a cooling off of the early ardor between the governor and many staunch Anglicans.

Cornbury's first major confrontation with the Assembly resulted from a bill he had recommended in 1703 to erect additional fortifications in New York harbor to protect the city against a

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Lord Cornbury, one of the few royal governors who shaped educational policy in colonial New York, sometimes went out in public in women's clothes to show off a slight resemblance to his cousin, Queen Anne.

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possible attack by French ships. The Assembly voted 1,500 pounds. Two years later, a French privateer sailed into the harbor without any difficulty because the cannons had never been bought. Instead, the 1,500 pounds had been diverted by Cornbury to build a summer residence. The Assembly then demanded—and soon got—authority to supervise all future spending for "extraordinary supplies for particular uses."

Meanwhile, prominent Anglicans started to fear that Cornbury's continuing persecution of Presbyterians would unite the Presbyterians and other Protestant denominations against the Church of England. Heathcote, who had become the most active vestryman of Trinity Church, warned that Cornbury's role in dispossessing the Presbyterian minister in Jamaica in 1702 had brought scandal upon the Church of England. And a respected Anglican clergyman in the colony confided to church officials in London that, "I have scarce a man in the Parish truly steady and real to the Interest and promotion of the Church any further than they aim at the favor or dread the displeasure of his Lordship."

The governor also ran up huge debts, including one to a wine merchant totaling 400 pounds, and was ridiculed by rising political leaders in both New York and New Jersey, notably Lewis Morris, when in an apparent attempt to show off a slight resemblance to his cousin, the queen, he paraded on the ramparts of the fort in New York City in women's clothes.

Petitions for Cornbury's removal were sent to London from the two colonies, and with power slipping out of the governor's hands and the New York and New Jersey Legislatures gaining strength, the Lords of Trade decided that Cornbury had to be replaced. Queen Anne agreed and dismissed Cornbury in 1708, sending Lord Lovelace to succeed him. As soon as Lovelace arrived, Cornbury's creditors had the ex-governor arrested. Cornbury was jailed in New York City and remained there until 1710, when his father died and Cornbury inherited enough money to pay his debts and return to England.

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WILLIAM SMITH—FIAT ERUDITIO

The Legislature passed no new laws to promote education until 1732 when, like state governments in the 20th century, it voted to take over a private school that was running out of money. Unlike the 1702 statute, this law, "An Act to encourage a Public School in the City of New York for teaching Latin, Greek and Mathematicks," gained quick approval from the Council and the governor after being sped through the Assembly. Such support showed a radical change in the thinking of New York's political power brokers who, especially after Cornbury's excesses, had been content to let individual benefactors and clergymen found and finance the schools in the province.

Some government officials like Caleb Heathcote and Lewis Morris continued to try to beef up education between 1702 and 1732. But even they chose to work outside the Legislature, mostly by encouraging the educational activities of the Society for the Propagation of the Gospel in Foreign Parts. The S.P.G. had been chartered by William III in 1701 and acted as an arm of the Church of England in New York, New Jersey and several other colonies. Its purposes included the founding of charity schools where orphans and the children of poor Anglican communicants, in particular, were taught to read and write and were drilled in the catechism, which they were expected to know "perfectly by Heart." Not all S.P.G. teachers were clergymen, however. Some were lay schoolmasters sent from England after being carefully screened, not so much for sheer brilliance as for their "affection to the present government" and their "conformity to the doctrine & discipline of the Church of England."

Heathcote and Morris were two of the original S.P.G. members in America as well as fellow vestrymen of Trinity Church in New York City and close friends who were linked largely by their disgust with the ignorance and immorality of most people in the colonies.

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When Heathcote, a wealthy merchant originally from England, became lord of the manor of Scarsdale, he lamented to S.P.G. officials that Westchester was "the most rude and Heathenish Country I ever saw in my whole life...there not being so much as the least marks or Footsteps of Religion of any Sort." Similarly, Morris reported to the bishop of London that religion was in no better shape in New Jersey, where Morris was a member of the Governor's appointed Council. Citing Middletown as a case in point, he fumed that the youth "are very debauch'd & very ignorant, and the Sabbath day seems there to be set apart for Rioting and Drunkenness."

Heathcote resorted at first to a Cornbury-like tactic to fill the churches of Westchester County, where he pulled rank as colonel of the militia. "Having the command of the militia," he advised the S.P.G. in London, "I sent an order to all the Captains, requiring them to call their Men under Arms, and to acquaint them, that in case they would not in every Town agree amongst themselves to appoint Readers and pass the Sabbath in the best Manner they could, till such Times as they could be better provided, that they should every Sunday call their Companies under arms, and spend the Day in Exercise."

The colonel's directive boosted church attendance but was so resented that Heathcote decided it would be more fruitful over the long haul to make converts by "convincing men's minds, and satisfying them in all their foolish notions against the best of churches." Despairing of ever making much headway with adults, he turned his energies to educating the young. With the help of the S.P.G., he devised a plan for "fixing schools in this country for the benefit of all youths therein, in order to their being trained up, not only in learning, but in their tender years to ingraft them in the church." This plan began to take shape as early as 1704, suggesting that Heathcote never expected the Legislature to do much for education beyond establishing the one tax-supported school in New York City.

The first S.P.G. school founded as part of Heathcote's activities was at Rye. The instructor was hand-picked by Heathcote and taught approximately 60 pupils a year. Heathcote later helped the

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S.P.G. to place teachers in other parts of New York, including largely Presbyterian Long Island. And, after becoming mayor of New York City, he regularly inspected the S.P.G. charity school there as one of the visitors designated by the society. In short, Heathcote nudged New York toward the creation of a tuition-free system of schools supervised by a single policy-making body—the S.P.G., in this case—long before it dawned on government officials that they could do basically the same thing, but without promoting the cause of any single sect.

Meanwhile, Morris, the first lord of the manor of Morrisania, sought to have an Anglican-sponsored college founded in New York City as early as 1702, a year before Cornbury sent his college proposal to the Trinity Church rector and wardens. In a letter to S.P.G. officials in England, Morris depicted New York as "the Center of English America & a Proper Place for a Colledge." He also urged the S.P.G. to acquire the King's farm as the site for the college. "That Farm in a little time will be of considerable value," Morris explained, "and it's a pity such a thing should be lost for want of asking, which at another time wont be so Easily obtained." The society failed, however, to get the land.

During the next few decades, there was only one other proposal for founding a college in New York, and it was shaky at that. In about 1730, before he became a bishop, George Berkeley considered New York as an alternative site for a college he originally planned to build in Bermuda. Berkeley had obtained a royal charter for St. Paul's College in Bermuda several years earlier, thinking he could best serve God by preparing Indians and English youngsters to become missionaries "well fitted for propagating Christianity among the savages." Without ever having seen Bermuda, he concluded that it would be an idyllic setting in which seminarians would grow in Christian wisdom safely shielded from crass material concerns. "Many things ought to be considered in the choice of a situation," he explained in applying for the college charter. "It should be in good air, in a place where provisions are cheap and plenty...in a place of security; not exposed to the insults of pirates, savages or other enemies; where there is no great trade, which might tempt the Readers or Fellows

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of the College to become merchants, to the neglect of their proper business, where there are neither riches nor luxury to divert or lessen their applications, or to make them uneasy and dissatisfied with a homely frugal subsistence; lastly, where the inhabitants, if such a place be found, are noted for innocense and simplicity of manners."

Before he got to Bermuda enroute from England, however, Berkeley stopped off in Rhode Island, where he expected to purchase supplies for the college as soon as money promised—he thought—by the British government reached him there. But once in Rhode Island, Berkeley realized that Bermuda was still a long distance away, and he began to consider a more convenient location, such as New York, whether the inhabitants lived in simple innocence or not. Meanwhile, government officials in London who had never thought much of Berkeley's plan anyway decided to spend the money Berkeley was counting on for a royal wedding instead of a college. The prime minister, Sir Robert Walpole, suggested that Berkeley "give up his present expectations," and Berkeley accepted the advice, returning to England in 1731.

This was also the year in which a schoolmaster named Alexander Malcolm opened a private school in New York City to teach Latin, Greek and mathematics. It was the only such school in the province, and some New Yorkers at least welcomed the opportunity to have their children receive a classical education near home, rather than sending them to New England or Great Britain. However, revenue from tuition and individual donations fell short of what Malcolm needed to support his family. But if the school lacked funds, it still had friends. On October 3, 1732, an unprecedented petition bearing the names of "sundry gentlemen" was sent to the Assembly "praying the Permission of this House, for bringing in a bill to establish perpetual Support for a Master, to teach Greek and Latin." The petitioners were Morris, his son, Lewis Morris Jr., James Alexander and William Smith (no relation to "Tangier" Smith).

The elder Morris was an avid reader throughout his life, even though he had little formal education. In his youth, Morris had

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been strong-willed and tormented his Quaker tutor. He ran away from home—actually from an uncle in New Jersey charged with trying to raise him—to make his own way in the world, first in Virginia and then on the island of Jamaica. But he returned to New Jersey at the age of 20, patched up his relations with his uncle and married the daughter of the province's attorney general. Although there is no record of his having ever studied law, Morris was made a judge in East Jersey only a year later and became active enough in political affairs to win serious consideration for appointment as governor of New Jersey in 1702. However, Cornbury landed the job instead, causing a political feud between the two ambitious men.

Alexander, eventually one of the founders of the American Philosophical Society, was born and raised in Scotland, where he was trained as an engineer. But he fled to America in 1715 after casting his lot with the exiled Stuarts in an unsuccessful uprising. His solid background in mathematics enabled him to become surveyor-general in New Jersey and then New York. Alexander later switched professions and practiced law in both provinces. Like Morris, he was also a political maverick.

Smith was the most scholarly of the four petitioners and probably the one most appalled that New Yorkers showed so little regard for education that Malcolm could not make a go of his attempt to teach Latin and Greek. Smith had been tutored in the classics and sciences before leaving England as a teen-ager and was sent to Yale when his father, apparently to the family's surprise, discovered that there was no college in New York. Smith graduated from Yale in 1719 and obtained his A.M. from that college three years later. He taught at Yale from 1722 to 1724 and so impressed his colleagues that he was asked to become the college president at the age of 27. Smith decided to be a lawyer instead, but continued to study classical languages in his free time, relying on books sent to him in New York from England.

When Malcolm opened his school, the Morrises, Alexander and Smith contributed personally to its support and then linked forces to get the provincial government to step in to save it.

The petitioners' education proposal was drafted by Adolphus Philipse, the speaker of the Assembly, and was submitted just

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two days later by Stephen De Lancey, who had also introduced the grammar free-school bill of 1702.

Malcolm was lucky that the bill was ready for legislative action no later than it was. The Morrises, backed by Alexander and Smith, were already at odds with the De Lancey and Philipse families, who headed the dominant political bloc in the province, the so-called Episcopal "court party," and skirmishes between the two factions prior to 1732 were about to worsen.

The first casualty was Lewis Morris Sr., who was dismissed as New York's chief justice in 1733 for ruling against the recently appointed governor, William Cosby, in a dispute over the salary owed Cosby. The two other Supreme Court justices were James De Lancey, Stephen De Lancey's son, and Frederick Philipse, Adolphus Philipse's nephew. De Lancey and Philipse upheld the governor.

In 1735, James De Lancey, who had replaced Morris as chief justice, disbarred Alexander and Smith, the original lawyers for John Peter Zenger when Zenger was charged with libel for publishing newspaper articles attacking Cosby and the De Lancey-Philipse faction. The lawyers' first line of defense—and the immediate cause of their undoing—was that James De Lancey and Frederick Philipse had no right to judge Zenger because, Alexander and Smith argued, their appointments to the bench were illegal.

Whatever their political differences, however, members of both blocs agreed, in 1732 at least, that New York had to do more for education if for no other reason than civic pride. Except for clergymen, the colony could claim only a mere handful of college graduates, such as James De Lancey, who had gone to Cambridge University, and Yale-educated Smith. This must have been a sore point, since the legislation proposing to have the government take over Malcolm's school conspicuously stated that New York "abounds with Youths of a Genius not Inferior to other Countries"—the word "countries" doubtless being used loosely enough to include Massachusetts and Connecticut, the educational pace-setters in Colonial America.

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Legislative records do not show what was contained in the original education plan that Smith, Alexander and the Morrises submitted to Adolphus Philipse for Philipse to draft in bill form. However, it is likely that the final version of the legislation came out pretty much the way the petitioners hoped it would. The Assembly made "several amendments" and added "several clauses," but the Council and Governor Cosby gave their final approval without requiring any further changes. The bill became law on October 14, just nine days after it was introduced.

What Smith and his colleagues must have had in mind, then, was to make publicly funded, non-sectarian education available to students—even if precious few students—from throughout the province under the supervision of government officials for the common good.

The 1732 statute began by expressing the sponsors' belief that "good learning" would make men "better, wiser and more useful to the Country as well as to themselves." It then provided for the creation of "one Public School" in New York City for the teaching of Latin, Greek and mathematics and named Malcolm the first teacher. He or his successors would be required to instruct students at no cost to the students. Instead, the teacher would be paid by the government at a salary established by law.

The total number of students in any single year was limited to 20. Half of them were to be from New York County, the most populous. Albany County was allotted two students. The remaining counties at the time—Kings, Queens, Suffolk, Westchester, Richmond, Orange, Ulster and Dutchess—could send one apiece. In New York and Albany counties, the students would be selected by the mayors, recorders and aldermen. In the other eight counties, the presiding judges would make the choices. All students had to be at least 14 years old and proficient in reading and writing English.

The law also established a board of visitors whose sole specified responsibility was to determine whether the schoolmaster should be removed and, if so, who should succeed him. The grounds for dismissing a teacher were misbehavior or neglect of duty.

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The visitors were the colony's three Supreme Court justices, at that time Lewis Morris Sr., James De Lancey and Frederick Philipse; the mayor, recorder and aldermen of New York City; and the rector of Trinity Church in New York City. The Assembly probably amended the original plan to include the Trinity Church rector, since it is doubtful that Smith, a Presbyterian, would have recommended appointment of an Anglican only.

The funds to pay the teacher's salary were to be raised by two kinds of taxes. The 1693 law requiring the residents of New York County to pay a tax to support a minister—still on the books despite continuing Presbyterian opposition—would be used to collect about half of Malcolm's pay. The balance would come from revenues from another law requiring hawkers and peddlers to be licensed throughout the colony.

Believing he could finally afford to teach in New York, Malcolm kept his school open. Students were sent from different counties, but the teacher never received his full salary, mostly because the government failed to reap much revenue from selling peddlers' licenses.

When the bill expired after the five years it was to remain in effect, supporters of the school scraped up barely enough votes for a one-year extension. The Morrises and Alexander were in the Assembly and tried to help Malcolm again. But by 1737, it was clear that the Philipses and De Lanceys were no longer disposed to join forces with their political foes. With no real hope that his financial situation would get better, Malcolm gave up his teaching job and returned to England. No successor was ever named.

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WILLIAM LIVINGSTON—GOD AND MAN AFTER YALE

In the middle of the 18th century, New Yorkers finally founded the colony's first college, King's, later Columbia, in New York City. But this did not happen without one of the biggest rhubarbs in pre-Revolutionary New York. At issue was whether the college would be nondenominational or sectarian. Anglicans expected preferential treatment in the operation of the college. Presbyterians argued that every denomination should be on an equal footing, regardless of size or political clout. Leaping into the fray—or else dragged into it—were clergymen, educators and government officials on both sides of the Atlantic.

The seeds of the controversy were sown in 1746, although no one fully realized it at the time. In that year, the Legislature authorized a lottery to raise 2,250 pounds "for the Advancement of Learning & the Founding of a Colledge." The lottery law went into great detail about how tickets would be sold, winners chosen and cheaters punished (anyone caught counterfeiting tickets would be put to death without benefit of clergy). But it was fuzzy about the eventual use of the lottery proceeds, suggesting only that the "Wellfare & Reputation" of the colony would be greatly enhanced if the public bought enough tickets to provide "a Proper & Ample Foundation...for the Regular Education of Youth."

Whatever the law said—or left unsaid—there is no doubt that the sponsors' intent was to establish an Anglican-dominated college. This was not an entirely new idea. But it suddenly seemed urgent in 1746, since the Presbyterians had just obtained a charter for the College of New Jersey.

Anglicans pooh-poohed the new college, publicly at least, suggesting as one stalwart put it that the Presbyterians had merely erected "a fountain of Nonsense." But they were alarmed, especially when it turned out that some supporters of the New Jersey college were New Yorkers hostile to the Anglican-

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dominated government, among them longtime De Lancey-baiter William Smith and young firebrand William Livingston.

After failing to raise the level of learning in New York in the 1730's, Smith decided that the intellectual climate was better in New Jersey, where an old friend, Lewis Morris Sr., had become governor and the indefatigable Rev. Aaron Burr, a Yale alumnus like Smith, had opened a school to teach the classics. Smith teamed up with Burr to make the school a full-fledged college. As a co-founder and second College of New Jersey president, Burr devised the course of study and entrance requirements. Smith was one of the original trustees and probably drafted the first charter.

Livingston, the fourth son of manor lord Philip Livingston, was born and reared in Albany and sent to Yale with the expectation that he would follow the lead of his older brothers and become a successful fur trader and land speculator. Livingston did not share the family fondness for business affairs, however, and he decided to study for the law after graduating from Yale in 1741. There were no law schools at the time, so Livingston went to New York City to learn the profession, as was the tradition then, from established practioners. The two mentors he chose were Smith and James Alexander. Smith and Alexander had been re-admitted to the bar several years earlier. Smith's interest in the College of New Jersey no doubt rubbed off on Livingston, who was in his early twenties, since Livingston was clerking for Smith when the college was chartered.

But Livingston was no mere imitator of Smith. He had his own ideas about education, and they were the ideas of an angry young man, not a seasoned scholar.

The headstrong Livingston had expected Yale to be a place where students were taught to think for themselves. But once he got there, he concluded that this was not the case at all. And he resented it.

Drawing upon his four years at Yale, Livingston later wrote that the net effect of a college education was to "contract and imbitter" young minds, rather than open them. The cause of this,

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he explained, was the dogmatic religious teaching "so observable in the Generality of Academies."

"Tho' academies are generally Scenes of endless Disputations," he maintained, "they are seldom Places of candid Inquiry. The Students not only receive the Dogmata of their Teachers with an implicit Faith, but are also constantly studying how to support them against every Objection. The System of the College is generally taken for true, and the sole Business is to defend it. Freedom of Thought rarely penetrates those contracted mansions of systematic Learning. . . Every Deviation from the beaten Tract *(sic)* is a kind of literary Heresy."

When Livingston was a student, there were only three colleges in all of the colonies, Harvard, Yale and William and Mary. Livingston probably knew little, if anything, about William and Mary, so he used Harvard and Yale to make his point.

"At Harvard College in the Massachusetts-Bay, and at Yale College in Connecticut, the Presbyterian Profession is in some sort established. It is in these Colonies the commendable Practice of all who can afford it, to give their Sons an Education at their respective Seminaries of Learning. While they are in the Course of their Education, they are sure to be instructed in the Arts of maintaining the Religion of the College, which is always that of their immediate instructors; and of combating the Principles of all other Christians whatever."

Livingston's contempt for pedants in New Haven was later matched by his scorn for merchants in New York. In New York, he lamented, everybody wanted to be well-heeled, but hardly anybody cared about being well-educated.

"The want of a liberal Education has long been our Reproach and Misfortune," Livingston declared. "Our Neighbors have told us in an insulting Tone, that the Art of getting Money, is the highest Improvement we can pretend to: that the wisest Man among us without a Fortune, is neglected and despised; and the greatest Blockhead with one, caress'd and honour'd."

Initially at least, Anglicans avoided any public disclosure of their educational intentions, and Livingston hoped the proposed

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college would make New Yorkers at least a bit less boorish. So he threw his support behind the lottery, believing there was a greater danger of the college being nipped in the bud because of neglect than being taken over by a sect.

In 1749, lottery tickets were selling poorly, and Livingston designated himself to save the day. He dashed off a pamphlet containing a laundry list of education's "eminent advantages," suggesting among other things that the public would be spared the harm so long inflicted by vandals, drunks and grasping politicians once learning flourished in the colony. Whether or not Livingston's pamphlet had much to do with it, the lottery proceeds jumped to a total of 3,400-plus pounds two years later, and the Legislature was ready to take its next big, and fateful, step toward founding a college—naming trustees to decide exactly how the money would be spent. Livingston was picked as one of 10 trustees, apparently in recognition of his earlier effort to salvage the lottery. But he was shocked to discover who his colleagues would be. Seven were Anglicans, two belonged to the Dutch Reformed Church, and Livingston alone was a Presbyterian.

Despite his outrage, Livingston accepted the post. Being a trustee seemed to offer a few advantages at least. He would know in advance what the Anglican majority was up to (he thought) and this would give him a chance to check their partisan zeal. However, even as a trustee, Livingston was kept largely in the dark, since most of the signals were being called from Trinity Church.

The behind-the-scenes activities of the Anglicans became apparent to Livingston only piecemeal. In early 1752, Trinity Church officials volunteered to give up a part of the old King's farm, which they had acquired a half-century earlier, as the site for the college. A few months later, another William Smith, this one an Anglican seminarian, was asked to draft a plan for operating the college. And by the end of the year, it was no secret that the post of college president had been quietly offered to the Rev. Samuel Johnson, an Anglican divine from neighboring Connecticut.

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To Livingston's dismay, Anglicans took an even harder line after 1752. Strings were attached to the proposed Trinity land grant. The college, it turned out, would get the property *only* if two conditions were met: the college president would always have to be an Anglican communicant; and the liturgy of the Church of England would be used exclusively for daily worship services at the college that all students would have to attend. Johnson would not only be the college president, but simultaneously a salaried Trinity Church clergyman. And the college charter—when it was drafted—would be a royal charter, not a legislative charter, which meant that the Assembly would be bypassed and its non-Anglican members therefore would not get a chance to change any provisions they didn't like.

In effect, Livingston concluded, New York was about to erect "Trinity Church College." And, to add insult to injury, it was going to do so with public funds that he had helped to raise by promoting the lottery a few years earlier.

Livingston hoped, however, that the Anglican plan could be blocked if the public were alerted to the dangers of a denominational college and sold on the advantages of a "publick seminary" offering a civic-centered education. To accomplish this in a hurry, he used the *Independent Reflector*, a weekly newspaper of sorts that he had started in November of 1752 along with two fellow Yale graduates and drinking companions, John Morin Scott and William Smith Jr., son of Livingston's old law mentor.

The *Reflector* was tailor-made to turn the college controversy into a *cause celebre*. Livingston, Scott and the younger Smith had grandly proclaimed at the outset that their publication would champion civil and religious rights, expose vice and corruption and "display the amiable charms of Liberty." Each issue was devoted to a single subject, and the authors did not hesitate to show their bias whether they were attacking medical quacks or defending the persecuted Moravian sect. Moreover, the people who wrote the articles and read them were influential, if not numerous; for example, one contributor was the Rev. Aaron Burr, and regular readers included Benjamin Franklin.

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The first *Reflector* issue to deal specifically with the founding of the college was dated March 23, 1753, and it was written by Livingston. It was somewhat rambling and, for Livingston, mildly worded. The principal point was that education should be practical and useful to the state. "The true Use of Education," Livingston declared, "is to qualify Men for the different Employments of Life. . .to infuse a public Spirit and Love of their Country; to inspire them with the Principles of Honour and Probity; with a fervent Zeal for Liberty, and a diffusive Benevolence for Mankind; and in a Word, to Make them the more extensively serviceable to the Common-Wealth." Therefore, he added, "I will venture to lay down for a capital Maxim, that unless the Education we propose, be calculated to render our Youth better Members of Society, and useful to the Public in Proportion to its Expense, we had better be without it."

In the next issue, a week later, Smith tackled the religious issue, urging "a perfect Parity" among all denominations as the only way to avert bitter sectarian strife. Smith listed Presbyterians, Episcopalians, Anabaptists, Lutherans, Quakers and Moravians as "all equally zealous for their discriminating Tenets." He then raised a series of pointed questions about what would happen if the proposed college should be run by any one of these groups.

"Would not all possible Care be bestowed in tincturing the Minds of the Students with the Doctrines and Sentiments of that Sect? Would not the Students of the College, after the course of their Education, exclusive of any others, fill all the Offices of the Government? Is it not highly reasonable to think, that in the Execution of those Offices, the Spirit of the College would have a most prevailing Influence, especially as that Party would perpetually receive new Strength, become more fashionable and numerous? Can it be imagined that all other Christians would continue peaceable under, and unenvious of, the Power of that Church which was rising to so exalted a Preheminence above them? Would not the Church which had that Ascendency be thereby irritated to repeat Acts of Domination, and stretch their ecclesiastical Rule to unwarrantable and unreasonable lengths?

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Whatever others may in their Lethargy and Supineness think of the Project of a Party-College, I am convinced, that under the Management of any particular Persuasion, it will necessarily prove destructive to the civil and religious Rights of the People. . ."

In mid-April, Livingston contributed another article, this time detailing the reasons why the college should be incorporated by an act of the elected Assembly, not by a royal charter. His main argument was that the college could not survive without public funding and that the Legislature—not the Crown—had the right to decide how taxes imposed on New Yorkers would be spent.

"It is unreasonable to suppose, that an University raised by private Contribution in this Province, should arrive at any considerable Degree of Grandeur or Utility," Livingston wrote. "The Expence attending the first Erection, and continual Support of so great a Work, requires the united Aid of the Public. Should it once be made an Affair of universal Concern, they will, no Doubt, generously contribute by Taxes, and every other Means towards its Endowment, and furnish it by a provincial Charge, with whatever shall be necessary to render it of general Advantage. . .

"If the College be erected at the Charge of the Province, it ought doubtless to be incorporated by Act of Assembly; by which Means the whole Legislature will have, as they ought to have, the Disposition of the Fund raised for this Purpose: The Community will then have it in their Power to call those to an Account into whose Hands the public Monies shall be deposited for that Particular Use. . .

"Besides, no particular Set of Men can claim a Right to dispose of the Provincial Taxes, but those impowered by the Community; and therefore, if the Colony must bear the Expence of the College, surely the Legislature will claim the Superintendency of it."

Building upon Livingston's argument, Smith followed up in the next issue with specific recommendations for making the college purely public. Smith's key proposals were that:

—The trustees of the college would be named by the Legislature and serve "at the good Pleasure" of the governor, Council and Assembly.

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William Livingston campaigned in the 1750's for government supervision of the first college in New York. Some of his ideas influenced the founding of The University of the State of New York three decades later, when Livingston was the governor of the State of New Jersey.

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—The college president would be chosen by a majority of the trustees, subject to approval by the Assembly.

—The trustees and president together would determine bylaws for operating the college, again subject to Assembly approval.

—There would be no established religion at the college. Rather, college officials and students were to be "at perfect Liberty to attend any Protestant Church at their Pleasure respectively."

—The trustees would be prohibited from appointing any professors of divinity, and the only degrees to be conferred would be "in the Arts, Physic, and the Civil Law."

—Everyone at the college would be assured of "unrestrained Access to all Books in the Library," and nothing could be done to impede "free Conversation upon polemical and controverted Points in Divinity."

Without these provisions in the act of incorporation, Smith concluded, the college would be the bane of the colony, "a perpetual Spring of public Misery. . .the Nursery of Bigotry and Superstition—An Engine of Persecution, Slavery and Oppression—A Fountain whose putrid and infectious Streams will overflow the Land and poison all our Enjoyments."

The governance proposals advocated by Livingston and Smith were not adopted at the time. But the principles articulated by these two men in the *Reflector* articles were to contribute significantly to the idea behind the University of the State of New York when this institution was created three decades later.

(While the future of the college was being debated, two proposals were made—but not implemented—to create public schools as well. In another *Reflector* article published in November of 1753, Smith pointed out that "good Grammar Schools" would be needed throughout the province so that students did not arrive at the college in New York City ill-prepared for advanced study. "At the same Time, therefore, that we institute a College, we should by no means neglect the Encouragement of Schools without which it will be thin and unprosperous," he wrote. Smith recommended that the Legislature adopt a law

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"for building and establishing two Grammar Schools in every County." These schools would be supervised locally by elected "guardians" and supported by county taxes. At almost the same time, but no doubt acting independently, Anglican seminarian William Smith, who had been designated to prepare the plan for the operation of the college, proposed what amounted to a universal system of education for New York City. But it was to be a two-track system. Most children would attend a "Mechanic's School" only. The rest would go to a "Latin School" that would prepare them for admission to the college. All children should be divided into "two grand classes" at a young age, he said. One group would consist of those destined to enter the "mechanic professions." They would spend nine years—to about the age of 15—studying such "useful" subjects as reading, writing, arithmetic, "husbandry and chymistry," but no languages other than English. Children in the second group, "those designed for the learned professions," such as divinity, law and medicine, would also start at the Mechanic's School. However, after three years there, they would transfer to the Latin School, which would offer a five-year program stressing classical studies. The two schools would be "in no other way connected. . .than by being under the inspection of the same Trustees.")

The *Reflector* tirades increasingly outraged Anglican leaders, among them James De Lancey, then New York's lieutenant governor, who suppressed the publication in November of 1753, a year after it had been started. Anglicans also struck back by accusing the Presbyterians of trying to torpedo the proposed college so that they could enroll more students at the College of New Jersey. And they forged ahead with the drafting of the royal charter, which was prepared in 1753 by three Trinity Church vestrymen, with editorial assistance from New York's Anglican attorney general. When the proposed charter reached the 10 managers of the lottery fund, Livingston was the only one who opposed it. The 9–1 vote suggested that the Anglicans would have clear sailing from there on. But the storm was far from over.

By this time, Livingston's allies included veterans of New York's political wars like James Alexander and William Smith Sr.,

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as well as comparative newcomers like John Morin Scott and William Smith Jr. Together, they launched a series of political maneuvers in combination with additional propaganda campaigns which continued for another few years. As part of their overall strategy, they warned Presbyterian clergymen and their congregations in Upstate New York that the founding of an Anglican college in New York City was just the first step toward making the Church of England the established church in the entire colony, rather than in four lower New York counties. Simultaneously, they tried to put De Lancey into an awkward position which would force De Lancey to part company with his traditional supporters in the Anglican hierarchy.

Over the years, De Lancey had enhanced his political reputation among New Yorkers by championing the Assembly in its battle to wrest control over the province's financial affairs from officials appointed by the British government. However, De Lancey was suddenly thrust into the role of chief representative of the Crown when Sir Danvers Osborne, a newly appointed governor, commited suicide only one day after arriving on the job. As lieutenant governor, De Lancey assumed the governor's duties until a successor could be named and reach New York.

Anglicans, seeing an opportunity to defeat their opponents in the worsening college controversy, pressed De Lancey to sign the charter quickly and, equally important, to transfer the lottery funds to the college whether the Assembly went along or not. Although De Lancey was convinced personally that the college should be under Anglican auspices, he was reluctant to go out on a limb politically. Therefore, for a while at least, he gave some encouragement to both sides, while actually doing nothing to help either.

Johnson, meanwhile, arrived in New York City to administer the new college not fully aware of the uproar that divided the colony. Dismayed to discover that there was still no charter, he considered going back to Connecticut. But the Anglicans promised him they would carry the day. Johnson agreed to stay on conditionally, saying he would make a final decision once he knew exactly what kind of a charter had been approved. Despite his

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uncertainty, Johnson enrolled the first students and began to teach them at Trinity Church, where he was also designated a lecturer.

Johnson, a Yale graduate and later a tutor at that college, was originally ordained a Congregational minister and took the post of pastor of a church in West Haven, Conn., so that he would be near the Yale library and thus able to pursue his readings in theology. However, Johnson came to doubt the "Congregational Way," announced his crisis of conscience at a Yale commencement, and then sailed to England, where he fell under the influence of George Berkeley. As a convert to the Church of England, he became a missionary for the Society for the Propagation of the Gospel (S.P.G.) and returned to Connecticut. In 1743, he was awarded a Doctor of Divinity degree by Oxford University. Benjamin Franklin hoped Johnson would become the president of Franklin's then-proposed college in Philadelphia, but Johnson declined.

No doubt seeking to ease the religious tensions in New York, Johnson published an announcement of his new school in a New York newspaper in May of 1754 in which he conspicuously disavowed any plan of forcing the students to accept the doctrines of the Church of England. "It is to be understood," the announcement said, "that as to religion, there is no intention to impose on the scholars, the peculiar tenets of any particular sect of Christians; but to inculate upon their tender minds, the great principles of Christianity and morality in which true Christians of each denomination are generally agreed." Moreover, Johnson continued, "as to the daily worship in the college morning and evening, it is proposed that it should ordinarily consist of such a collection of lessons, prayers, and praises of the liturgy of the Church, as are, for the most part, taken out of the Holy Scriptures, and such as are agreed on by the trustees, to be in the best manner expressive of our common Christianity; and, as to any peculiar tenets, every one is left to judge fully for himself, and to be required only to attend constantly at such places of worship, on the Lord's Day, as their parents or guardians shall think fit to order or permit."

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At almost the same time Johnson ran his newspaper announcement, the proposed charter was drafted and submitted for final action by the Council and De Lancey. The charter followed Johnson's lead by specifying that the college would not "exclude any person of any Religious Denomination whatever from Equal Liberty and advantage of Education. . .on account of his particular Tenets in matters of Religion." However, the charter also contained the Anglican conditions for granting land to the college, saying that:

". . .in consideration of such Grant, to be made by the Rector and Inhabitants of the City of New York, in Communion of the Church of England, as by Law Established, the President of the said College, for the time being, shall for ever hereafter be a member of, and in Communion with the Church of England, as by Law established;" and that "there shall be forever hereafter Publick morning and evening service Constantly performed in the said College. . .according to the Liturgy of the Church of England."

Other parts of the charter provided that:

--The college would be commonly called King's College, but it would be chartered as the College of the Province of New York, in the City of New York, in America.

—The college would be supervised by a governing board dominated by 24 self-perpetuating governors chosen from among "the principal gentlemen of the city." (Livingston was one of the governors named in the original charter, but he refused to serve.) The others would be *ex officio* governors. Among them were the archbishop of Canterbury and the British lord commissioner for trade and plantations; such provincial officials as the lieutenant governor, Supreme Court justices, attorney general, treasurer, speaker of the Assembly, eldest member of the Council, and mayor of New York City; and the rector of Trinity Church and senior ministers of the Dutch Reformed, Lutheran, French and Presbyterian churches in New York City.

—The governors would meet at least once a year in New York City to adopt rules "for the Better taking care of, and Promoting the Interest" of the college. A quorum would be 15 members.

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The ranking official of the province in attendance would preside.

—Johnson would be the first president, administering the college according to "such Rules and orders as shall be made by the Governors." He would serve "during his Good Behavior," and his successors would be chosen by the governors.

—The governors would assign most day-to-day decision-making to the president. However, they were granted the right to determine, among other things, "what Books shall be publickly read and taught"; which students would receive degrees; and whether unruly scholars would be subjected to "the Greater Punishments of Expulsion, Suspension, Degradation and Public Confession."

The charter reached the Anglican-dominated Council in late May of 1754. As expected, only two members, Alexander and the elder Smith, opposed it. Alexander and Smith then demanded to have their dissent recorded in the minutes. But they failed to accomplish even this.

Livingston spent the next several months trying to woo De Lancey or else pressure him into rejecting the charter. But De Lancey also came under mounting pressure from Anglicans who threatened to go over his head to the archbishop of Canterbury or, if need be, the king. De Lancey finally signed the charter on October 31, 1754.

However, De Lancey's approval of the charter was not a total victory for the Anglicans. The lieutenant governor still wanted to extricate himself from the controversy as gracefully as possible and hoped tempers would cool with time. So he delayed delivering the charter to the college governors for six months and tried to get the Assembly to endorse his action and then transfer the funds to the college. But Livingston and his allies took advantage of the delay to do battle once more. This time they introduced a bill in the Assembly aimed at establishing the college "upon the most ample, extensive and catholick foundation," by which they meant under government, not ecclesiastical, supervision.

To accomplish this, the Legislature would be given almost complete control over the college. It would appoint the trustees and the college president and remove them from office if it was

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dissatisfied with their performance. The Legislature would also have the power to review all by-laws and the plan of instruction. And the curriculum could include "no System of Divinity whatsoever."

In effect, the bill was a refined and updated version of the scheme advanced by William Smith Jr., in the *Reflector* articles of 1753, paralleling the King's College charter in some ways, but conspicuously shifting authority from governors with ties to the Crown or any church to trustees thoroughly under the thumb of elected provincial lawmakers.

The bill was printed in November of 1754, but never acted on. Instead, both sides eventually were worn down by the long debate, and it was finally agreed in 1756 to let the royal charter stand and, as part of the compromise, to split the lottery proceeds between the college and the government of New York City. The city used its share to build a "pest house," a place to isolate sailors who might be carrying communicable diseases, and a new jail.

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MYLES COOPER—OXFORD-ON-HUDSON

Totally misreading the temper of the times, the King's College governors advanced the most far-reaching plan of education in Colonial New York on the eve of the American Revolution. The plan would have elevated the college to stellar standing within an Oxford-inspired university system to be governed by the first regents outside Western Europe. The proposal was sent to London in 1774 by New York's lieutenant governor, Cadwallader Colden, who suggested that the university might become a bulwark against the menace of republicanism. But the plan did not reach the Privy Council until April of 1775, too late, as far as British officials were concerned, to be taken seriously.

The intellectual prime-mover behind this ambitious undertaking was Myles Cooper, the second King's College president, an Anglican clergyman, patron of the arts, bachelor *bon vivant*—and one of the most hated Tories in the province during the mid-1770's.

Cooper had been too young and too far away to know about the controversy over the founding of King's College. When the college opened in 1754, he was only 17 years old and a second-year student at Oxford more interested in poetry than pedagogy.

A few months before Cooper received his M.A. from Oxford, however, his father died and the family estate went to an older brother. Cooper therefore took a teaching position in order to support himself and came under the influence of a colleague at the school, the eccentric Rev. James Cawthorn, a professor, preacher and poet. Cooper apparently made Cawthorn his model, for a while at least. In 1761, he was ordained an Anglican priest; returned to his old college at Oxford, Queen's College, as chaplain; and published his first collection of poems, some of which he described as "Fragments of Ancient Poetry, Collected in the Highlands of Scotland, and Translated from the Galic or Erse Language."

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It was at about this time that Samuel Johnson advised the King's College governors that he wanted to retire as soon as a younger man could be prepared to succeed him as college president. Johnson was in his mid-sixties and found the job too demanding. In addition, he had told the governors at the outset that he lived in fear of smallpox and would not remain in New York City if there were any outbreaks of that disease. There were two outbreaks of smallpox in the late 1750's, and Johnson fled to Westchester County for about six months both times. By 1760, the governors decided they had no choice but to name a new president, and they asked the archbishop of Canterbury, one of the *ex-officio* members of the college board, to recommend someone who would be willing to be Johnson's assistant and, if deemed qualified, succeed him.

The archbishop turned the request over to an Anglican clergyman at Oxford, who finally selected Cooper, then 26 years old, as the best candidate. Cooper accepted the offer and sailed for New York in the summer of 1762.

Cooper was originally designated a fellow of King's College and professor of moral philosophy, as well as assistant to the president. However, instead of being groomed at length, he was whisked into the presidency in March of 1763, only four months after his arrival in the province. The archbishop had urged Johnson to remain in office long enough to give his heir-apparent "competent time for becoming, and showing himself in some degree proper to succeed you." But Johnson quickly concluded that Cooper "appears to be an ingenious, industrious, and prudent young gentleman" and went off to spend his remaining years among [redacted] in Connecticut.

At the time Cooper took over as president, there were 24 students at the college and two teachers, Leonard Cutting, a Cambridge-educated classical scholar, and Robert Harpur, who had been educated in Glasgow and taught mathematics and natural philosophy. The rules of the college provided detailed standards for admission, graduation and student behavior. For example, in order to enter the college, candidates were required to translate the first three books of Virgil's *Aeneid* into English

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and several chapters of St. John's Gospel from Greek into Latin, plus demonstrate proficiency in mathematics. After four years of study, including the sciences, logic and philosophy, as well as the classics, students were examined by the president and any of the college governors or alumni who wanted to ask "any question they think proper." Successful students then received the Bachelor of Arts degree and could obtain an M.A. three years later, for a fee, provided they "diligently pursued their studies" and were guilty of "no gross immorality." While at the college, students risked punishments ranging from admonition to expulsion for such offenses as "drunkenness, fornication, lying, theft, swearing, cursing, or any other scandalous immorality." In addition, they were expected to treat all superiors with due respect, "especially the authority of the college."

Under Cooper's administration, the curriculum was expanded and discipline made even more rigorous.

Medical studies were begun at the college in 1767, taught by six of the city's doctors in addition to their regular practice and including such subjects as anatomy, pathology, physiology and midwifery. College instruction in law was made possible for the first time in New York when a chair of municipal law was endowed by the governor, William Tryon, in 1774. Also in 1774, a divinity professorship was established and filled by an Anglican who was one of Cooper's former students at the college. In addition, a grammar school was created by the college in 1763 to prepare better candidates for admission.

Cooper also sought to make the college a cultural center for the city. His efforts along these lines were prompted by a trip Cooper made to Boston in 1768, when he sat for a portrait by John Singleton Copley. Cooper returned from Boston with the portrait and another painting, Copley's "Nun with a Candle," which he bought and placed in the college library "as a beginning to a public Collection." Three years later, Cooper invited Copley to visit New York City to paint the portraits of prominent people. Copley stayed in the city for about seven months and painted an estimated 35 to 50 portraits.

Meanwhile, Cooper took a hard line with any student he regarded as unruly or the least bit disrespectful. One of his first

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Myles Cooper, the King's College president who planned to establish the "Regents of the American University in the Province of New York," sat for this portrait by John Singleton Copley in 1768. The original is at Columbia University.

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actions as college president was to have a fence erected to keep students from slipping out at night, and any student caught trying to do so was fined. In addition, to be doubly sure that Cooper's young male students would be out of harm's way, it was decided that "no Women of any pretence whatever (Except a Cook) be allowed to reside within the College for the Future."

Cooper was such a demanding disciplinarian, in fact, that he even suspended model student John Jay, the future first chief justice of the United States, shortly before Jay was to graduate in 1764. The suspension came about after Cooper discovered that someone had broken a table in the college hall. The president lined up all the students and asked each in turn whether he had broken the table and, if not, who was responsible. Jay, like each student before him, said he did not break the table. But he admitted knowing who did. When Cooper insisted that Jay name the culprit, Jay refused. Outraged by what he regarded as a challenge to his authority, Cooper hauled Jay before the teachers for disciplinary action. Jay argued that nothing in the college rules compelled him to disclose the name of the student involved in the original incident. But Cooper pointed out that a student could be punished for being "contumacious," which, Cooper declared, was Jay's crime. Jay was suspended but then readmitted in time to graduate a month later.

Jay was not the only King's College student to anger Cooper. Just before the American Revolution, the loyalist president got into a public political debate with another of his students, Alexander Hamilton. And in 1771 he started keeping a "Black Book" in which he listed all infractions against college rules. One entry showed that four students once broke into the president's living quarters and made off with "a very large quantity of wine."

Whatever problems Cooper had with the students, he obviously loved his job. Unlike college presidents today, he had no trouble raising money, no run-ins with fractious faculty members, and nothing but pleasure living in New York City—or at least this was what he glowingly claimed in a kind of annual report in the early 1770's.

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"Since the passing of the charter," Cooper wrote, "the Institution hath received great emolument by grants from his most gracious majesty King George the Third, and by many liberal contributions from many of the nobility and gentry in the parent country; from the Society for the Propagation of the Gospel in Foreign Parts, and from several public-spirited gentlemen in American and elsewhere. By means of these and other benefactions, the Governors of the College have been enabled to extend their plan of education almost as diffusely as any college in Europe; herein being taught, by proper Masters and Professors, who are chosen by the Governors and President, Divinity, Natural Law, Physic, Logic, Ethics, Metaphysics, Mathematics, Natural Philosophy, Astronomy, Geography, History, Chronology, Rhetoric, Hebrew, Greek, Latin, Modern Languages, the Belles Lettres, and whatever else of literature may tend to accomplish the pupils as scholars and gentlemen."

For Cooper, the college setting was every bit as satisfying.

"The College is situated on a dry gravelly soil, about one hundred and fifty yards from the bank of the Hudson river, which it overlooks; commanding from the eminence on which it stands, a most extensive and beautiful prospect of the opposite shore and country of New Jersey, the City and Island of New-York, Long Island, Staten Island, New-York Bay with its Islands, the Narrows, forming the mouth of the harbor, etc., etc.,; and being totally unencumbered by any adjacent buildings, and admitting the purest circulation of air from the river, and every other quarter, has the benefit of as agreeable and healthy a situation as can possibly be conceived."

Such high praise was no doubt part of Cooper's warmup for a pitch he was about to make to officials back in England.

As early as 1771, he had suggested that the old King's College charter ought to be rewritten to permit the creation of an American university equal in stature to any in Great Britain: in other words, another Oxford—his *alma mater*—on this side of the ocean. To Cooper's delight, the British government was encouraging, suggesting that he draft such a proposal and send it to London for a final decision there. The draft, running more than 40

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pages, was ready by 1774 and gained initial approval from the King's College governors in August of that year.

Under the new charter—also to be a royal charter—there would be "One University for ever hereafter" known as the American University in the Province of New York. King's College would be continued as "the Mother of the American University." All colleges founded in the province from then on would be made part of the university system. Their exact relation to King's College would be worked out later.

The governing body of the university would be the "Regents of the American University in the Province of New York." They would be, in effect, upgraded King's College governors charged with the supervision of every member institution, rather than just one college. The regents would be headed by a chancellor and a vice chancellor elected by the board members.

As was the case with the college governors, there would be two kinds of regents: regular regents made up primarily of prominent New Yorkers named in the charter; and "official" regents who would serve by virtue of the offices they held in the government or church. There would be about 60 regents in all, or roughly twice the number of King's College governors. Among the proposed newcomers were the archbishop of Armagh in Ireland, the archbishop of York, the bishop of London, the president of the Privy Council, the chancellor of the Exchequer, and the principal secretary of state for the American Department, at that time the Earl of Dartmouth. In addition, an unspecified number of other regents were to be chosen from the neighboring American provinces.

The charter also designated Cooper the first president of the university as well as president of King's College. His successors, like Cooper, would have to be communicants of the Church of England and would serve at the pleasure of the regents. But it was not clear what power the president of the university would have over the operation of the other colleges within the system. On this point, the charter said only that "the President of the said University shall not as such claim or exercise any authority or jurisdiction in or over any other College hereafter to be founded

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or established within or as Part of our said University other than such as shall be given or granted" by the regents.

It was specified, however, that the regents themselves, not the university president, would choose a president and vice president for every college, including King's College, and that all of the presidents also would have to be Anglicans.

The regents were also empowered, among other things, to hold land and other property up to a specified ceiling and to dispose of such property for the benefit of the university; to confer whatever degrees they considered appropriate, provided such degrees were also awarded in England and Ireland; and to make laws and rules for the good of the university system.

The charter required the regents to meet only once a year, in New York City, with 15 members a quorum. However, it also created a special subgroup of regents, to be known as an "Academical Senate," that would handle matters needing attention between full board meetings. The senate would be made up of 12 members—the vice chancellor, the president of the university, and 10 regents who had to be residents of New York City. These 10 regents would be chosen by the full board at the annual meetings and serve one-year terms. Senate decisions would be subject to review and approval at the next annual meeting.

In addition, there would be "minor academical senates" at each college. The minor academical senates would be made up of the respective college president, fellows, professors and tutors. The powers of these local governing bodies were to be spelled out by the regents later.

In another departure from the old King's College charter, the new version also proposed to have the university directly represented in the Assembly. Under this provision, two university representatives would be chosen full-fledged members of the Assembly in elections open to regents, professors, fellows, tutors and other New Yorkers who had earned one of the "superior degrees" offered within the university. These assemblymen did not have to be regents. They could also be college officials or even alumni holding at least a master's degree.

After approving the charter, the college governors channeled it to London through Cadwallader Colden. The lieutenant gover-

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nor was a long-time champion of education, provided the education in question was designed to promote political stability and religious orthodoxy. In a letter to Governor Tryon dated August 22, 1774, Colden urged that the Charter be adopted for the reason that:

"The Dissenters from the church of England have the sole Education, not only in all the seminaries of learning in the New England Colonies, but likewise in New Jersey and other Colonies. It therefore seems highly requisite that a Seminary on the Principles of the Church of England, be distinguished in America, by particular Privileges, not only on account of Religion, but of good Policy, to prevent the growth of republican Principles, which already too much prevail in the Colonies."

Tryon followed up with a letter to the Earl of Dartmouth on February 17, 1775, saying in part:

"Permit me to present to Your Lordship a Draught of a New Charter for King's College, in the City of New York, transmitted to me by Lieut. Governor Colden: That the Institution for whose benefit it is requested, is calculated to disseminate Learning and true Religion among His Majesty's American Subjects, will I am persuaded sufficiently recommend it, to Your Lordships Patronage. It gives me happiness also, that I can testify, on this occasion, that the Attachment to his Majesty's Person and Government, which has always distinguished the Governors, Professors and Members of King's College, renders them truly deserving of the Royal attention and Countenance."

But time was running out for Cooper and his proposed university.

As a thorough-going Tory, Cooper could not contain his hatred of anyone who attacked the established government, especially in what he regarded as the increasingly outrageous political pamphlets of the early 1770's. Along with three other prominent Anglican clergymen, Thomas Bradbury Chandler, Charles Inglis, and Samuel Seabury, he formed a kind of watch-and-ward society to keep tabs on what dissenters were saying to fan the flames of revolution and to rebut the dissenters' arguments in their own pamphlets. The four clergymen announced their intentions in 1772, warning that they would be "watching all that

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should be Published, whether in Pamphlets or NewsPapers, and suffering nothing to pass unanswered, that had a tendency to lessen the respect or affection that was due to the Mother Country."

Although Cooper was just one of many loyalist pamphleteers, he did such a good job that he came to be credited—or blamed—for almost every piece of Tory propaganda in New York and even in some other colonies. As a result, he was one of five New Yorkers singled out for retribution after news of the clash at Lexington reached the province. "The blood of your unfortunate British and American fellow-subjects, who have already fallen in Massachusetts-Bay calls to Heaven for vengeance against you," Cooper and the four others were warned in a letter circulated on April 25, 1775. "The injury you have done to your country cannot admit of reparation. Fly for your lives, or anticipate your doom by becoming your own executioners."

Cooper spent the next few days safely holed up on a British frigate docked in New York harbor but then returned to the college. On May 10, however, a mob led by the Sons of Liberty gathered outside the college at about midnight, hoping to catch Cooper off guard in order to tar and feather him. Fortunately for Cooper, two King's College students, one of them presumed to be Hamilton, stalled for time by trying to talk the irate Patriots out of the attack, while a third led the president to safety through a back gate. Cooper again made his way to the British frigate. This time, however, he decided not to get off the ship until it reached England.

Even after the war broke out, Cooper hoped to go back to New York one day as university president. Failing that, he suggested to church superiors, he would settle for becoming a bishop, perhaps in Nova Scotia. Instead, Cooper was put in charge of a small Anglican chapel in Presbyterian-dominated Edinburgh, where he spent his last years living modestly and largely forgotten.

But the lean years came too late. Cooper had long loved rich foods and expensive wines and liquors, and such worldly pleasures apparently shortened his life. In 1784, he wrote to an old

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friend that he was suffering from a chronic stomach ailment that he identified as gout. He died a year later, at the age of 48, while having lunch, leaving behind—according to tradition at least—a supply of liquor that was sold off for 30 times as much money as his library collection.

Cooper was buried in a remote cemetery in an unmarked grave. But never at a loss for words, he had penned his own epitaph in advance, and it was published in an Edinburgh newspaper shortly after his death.

Here lies a Priest of English blood,
Who, living, liked whate'er was good—
Good company, good wine, good name;
Yet never hunted after fame.
But, as the first he still prefer'd,
So here he chose to be interr'd;
And unobserv'd from crowds withdrew,
To rest among a chosen few:
In humble hope, that Sovereign Love
Will raise him to the best above.

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GEORGE CLINTON—VOX POP

During the American Revolution, education—or what there was of it—came to a virtual halt in New York.

King's College was especially hard hit. The college was shut down for 8 years. Its students and faculty were dispersed. The library and laboratories were stripped. Onetime classmates became wartime foes. And 15 of the college governors were put on a "political enemies" list.

In April of 1776, before the Declaration of Independence was adopted, militant patriots in New York directed that the college building be vacated so that they could convert it into a hospital for wounded soldiers. Fearing reprisals, the governors complied, and classes were moved, although only briefly, to a house rented to the college by Leonard Lispenard, a prominent New York City merchant and King's College treasurer.

As a precaution, the library books and laboratory equipment were transferred to the City Hall. However, after the British took control of the city later in 1776, marauding English and German soldiers broke into the City Hall, carried the books off and sold them in order to buy liquor.

The 100 King's College students between 1754 and 1776 included such leaders of the new nation as Alexander Hamilton, John Jay, Robert R. Livingston and Gouverneur Morris. But numerous others remained loyal to the crown and eventually followed their old mentor, Myles Cooper, back to England.

The college governors also split into two camps, and the loyalist faction came in for especially harsh treatment. Part of the resentment against them was provoked by Sir James Jay, John Jay's mercurial elder brother, who had an old score to settle with board members. In the early 1760's James Jay, a physician, volunteered to raise money for the college while on a trip to Great Britain. At one point, the governors told Jay to send them the funds he had collected. But Jay refused to do so because he suspected that the motive behind the governors' action was that

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they did not trust him. Apparently seeking to show that they were not worthy of trust either, Jay insisted on being paid for his expenses before he released the funds. The upshot was what one board member described as "a warm epistolary dispute." A settlement was finally negotiated. However, Jay never forgave the governors for what he regarded as an insult.

When the war broke out, Jay saw an opportunity to get even by joining forces with another archenemy of the King's College governors, radical patriot John Morin Scott. Scott, who became New York's first secretary of state, was trying to drum up support for a bill that would have confiscated the estates of conspicuous Tories. When Jay was elected to the Senate in 1778, he agreed to vote for Scott's legislation if Scott would add the names of 15 college governors, plus two of their wives, to the original list of people whose land would be auctioned off. Jay's list included members of such old-line loyalist families as the De Lanceys, Philipses and Bayards, along with John Tabor Kempe, whose father had helped draft the King's College charter while attorney general, and Charles Inglis, the rector of Trinity Church and one of the Anglican clergymen who had teamed up with Cooper during Cooper's heyday as a loyalist pamphleteer. Scott needed no prodding. He amended his bill, and it was passed with Jay's help in 1779.

The near-total obliteration of schooling did not mean, however, that education was entirely forgotten during the war years. In fact, education came to be regarded as more important than ever once it was apparent that New York would be a self-governing state. What remained to be seen was whether education after the war would pretty much resemble education before the war, or whether it would be made distinctly different.

New state leaders might have charted a course for the development of education as early as 1777, except for a twist of fate.

This was the year in which New York adopted its first state constitution. This constitution did not mention education. But there is no question that John Jay, the principal author, fully intended to include a provision related to education, however open-ended it might have been. Jay had to leave the convention

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several days before it was over, however, since his mother had become seriously ill. He later wrote to his two closest colleagues during the deliberations, Robert R. Livingston and Gouverneur Morris, that:

"I should also have been for a clause against the continuation of domestic slavery, and the support and encouragement of literature, as well as some other matters, though perhaps of less consequence."

What Jay had in mind can only be guessed, since the Continental Congress soon after sent him to Spain to seek diplomatic recognition and financial assistance for the new nation, and then to France to help negotiate the peace treaty with Great Britain. Once peace had been achieved, Jay wrote two other letters that provide some clue to his thinking about education, but no details.

The first was written from Chaillot, near Paris, on April 6, 1784, to advise Princeton President John Witherspoon against trying to raise funds for education in Europe. The letter also suggests that Jay, who was William Livingston's son-in-law, was an early advocate of public higher education, and perhaps of public elementary schools as well.

"While our country remained part of the British empire," Jay told Witherspoon, "there was no impropriety in soliciting the aid of our distant brethren and fellow-subjects for any liberal and public purposes. It was natural that the younger branches of the political family should request and accept the assistance of the elder. But as the United States neither have, nor can have, such relations with any nations in the world; as the rank they hold, and ought to assert, implies ability to provide for all the ordinary objects of their government; and as the diffusion of knowledge among a republican people is and ought to be one of the constant and most important of those objects, I cannot think it consistent with the dignity of a free and independent people, to solicit donations for that or any other purpose, from the subjects of any prince or state whatever.

"The public, with us, are, in my opinion, so deeply interested in the education of our citizens, that universities, etc., ought no longer to be regarded in the light of mere private corporations.

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John Jay, while a Regent in 1785, said nothing should be left undone to afford all people the means of obtaining education "at a cheap and easy rate."

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The government should extend to them their constant care; and the State treasuries afford them necessary supplies."

The second letter was written on March 24, 1785, about a year after Jay had returned to New York, to Benjamin Rush, who was later to propose a comprehensive system of schools and colleges for Pennsylvania. In this letter, Jay commended Rush for Rush's earlier efforts to encourage college education and then gave his own views on why such efforts should be undertaken. Jay said, in part:

". . .permit me to congratulate you on the success of the application to Congress on behalf of Dickenson College, which you appear zealously to patronize. I consider knowledge to be the soul of a republic, and as the weak and the wicked are generally in alliance, as much care should be taken to diminish the number of the former as of the latter. Education is the way to do this, and nothing should be left undone to afford all ranks of people the means of obtaining a proper degree of it at a cheap and easy rate."

While Jay was out of the country, other New Yorkers sought to establish the first two colleges outside New York City. In August of 1779, separate applications were sent to the Assembly requesting the Legislature to incorporate a college in Kingston and another in Schenectady. The first petition was sent in behalf of "the freeholders and commonality of the town of Kingston." The second was signed by a total of 974 inhabitants of three counties in Northeastern New York, Albany, Tryon and Charlotte.

The two applications were referred to an Assembly committee whose members included Ezra L'Hommedieu of Suffolk County, Egbert Benson of Dutchess County and Robert Harpur of New York County, all future regents. Benson, in behalf of the committee, recommended two months later that the petitioners submit legislation at the next session to incorporate the colleges. No further action was taken in the Legislature. However, the proposal to create a college in Schenectady was taken seriously by Governor George Clinton.

Clinton's own schooling had been meager. He was born and raised in Upstate Ulster County, where there were no public schools at the time, and was tutored only briefly by a Presbyterian minister. As a result, Clinton did not learn to spell or write very

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well until later in his life and was never much of a reader. But he was a jack of many trades—sailor, farmer, surveyor, country lawyer, politician and militia general.

In the early 1760's, Clinton went to New York City to learn law and spent three years as an apprentice to William Smith Jr. But he did not like city life and returned to Ulster County, where he opened a law office and did some surveying on the side. He was elected to the provincial Assembly in 1768 and remained in office for eight years, aided no doubt by his marriage to Cornelia Tappen, the daughter of an influential Dutch burgher who had many relatives in Clinton's Assembly district.

Clinton came to be regarded as a radical Whig and was elected to the Continental Congress in 1775. But he was not much of an orator and was uncomfortable sitting through the long debates. So he accepted an appointment as a brigadier general once the war broke out. As a military leader, he became enormously popular with soldiers under his command and with officers, including George Washington. As a result, Clinton was named a candidate for both governor and lieutenant governor in the new state's first election in 1777. In the contest for governor, he defeated General Philip Schuyler, a prominent Hudson Valley landowner and champion of the Upstate Dutch aristocracy; Scott; and Jay, who did not want the office and had asked that his supporters vote for Schuyler instead. Clinton was also elected lieutenant governor but resigned that office, which then went to runner-up Pierre Van Cortlandt.

The double victory startled Schuyler and Jay and their supporters, who were uneasy about popular democracy and thought New York State should be governed by educated, propertied men like themselves. After the election, Schuyler wrote to Jay that Clinton's "family and connections do not entitle him to so distinguished a predominance." However, Schuyler added, "he is virtuous and loves his country, has abilities and is brave, and I hope will experience from every patriot what I am resolved he shall have from me, support, countenance and comfort."

Whatever the deficiencies in Clinton's own education, he came to believe that common schools should be founded throughout

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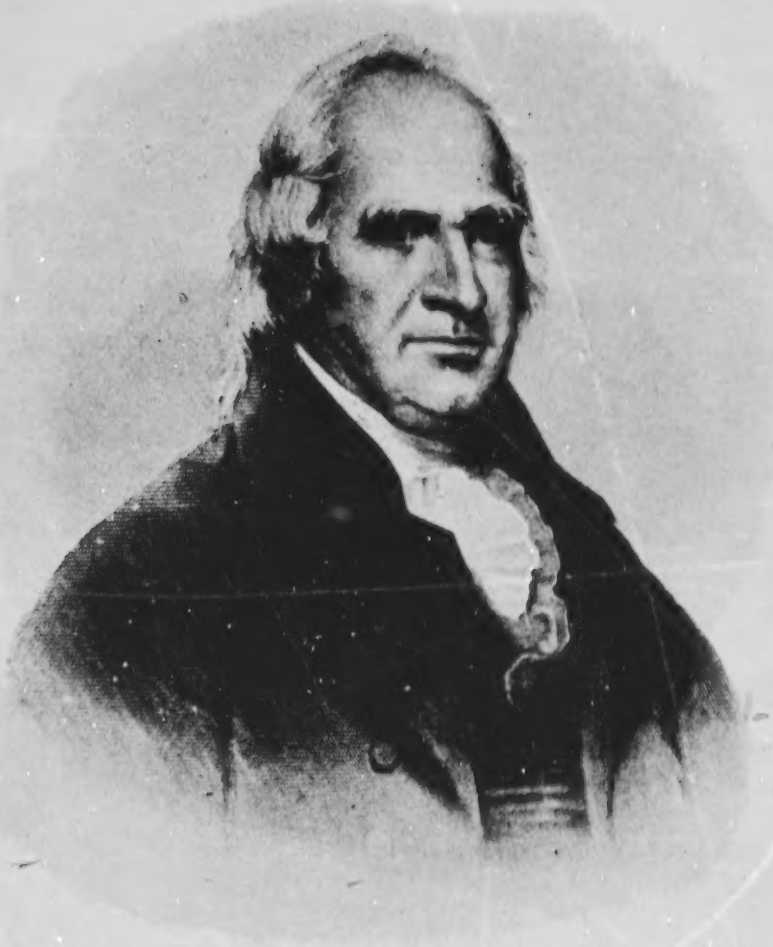
New York so that classroom learning would not remain "confined to the children of the opulent." In addition, he supported the proposed college in Schenectady and even had a proclamation drafted in 1779 to announce its creation and to spell out the charter provisions. The college was to be named after him. But the sponsors apparently were not ready to move as quickly as Clinton, and the proclamation was put aside.

The draft shows that the governor was counting on Clinton College to help produce new leaders to fill the offices of both church and state in post-Revolutionary New York. It also identified Clinton with growing Upstate hostility to New York City-based, Anglican domination of higher education. Borrowing language used in the petition to the Legislature, the governor declared that Schenectady was "in every respect the most suitable and commodious seat for a seminary of learning in this State, or perhaps in America." And, turning around a key provision of the King's College charter, he specified that the president of Clinton College should always be "a qualified person. . .of the Dutch Reformed Religion."

The draft also provided for the appointment of 33 trustees who would be "a body Corporate and Politic." The governor would be one of the trustees. The others would be named by the Legislature initially, but the board would then become self-perpetuating. The original trustees were to include Schuyler; James Duane; Robert R. Livingston; Abraham Yates Jr., a former Albany County sheriff who had become chairman of the committee that drafted the state constitution; John Henry Livingston, the most influential Dutch Reformed clergymen in New York at the time; Eilardus Westerlo of Albany, also a Dutch Reformed minister; and Timothy Edwards of neighboring Massachusetts, brother-in-law of the Rev. Aaron Burr.

No more than one-third of the trustees could be clergymen, and all trustees would be required to disavow "all foreign authority, civil and Ecclesiastical."

The trustees would have been empowered to hold land up to the value of 3,000 pounds sterling in order to buy or erect whatever buildings they thought were needed. In addition, they



George Clinton, the first governor of New York State, sought to convince the Legislature that "it is the peculiar duty of the government of a free state . . . to diffuse that degree of literature which is necessary to the due discharge of public trusts."

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would establish rules for running the college and hire and fire the president and faculty.

After the college plan was dropped, Clinton took no specific steps to promote education during the rest of the war. However, when the Legislature met in 1782 to deal specifically with military matters, the governor made a brief, unexpected appeal for the lawmakers to encourage learning as well. He offered no particular plan. Rather, he sought to convince the Legislature that the government needed educated citizens for its own good and that the state therefore must provide adequate schooling.

"I cannot forbear suggesting to you a work which I conceive ought not to be deferred, as the business of people, the promotion and encouragement of learning," Clinton said. "Besides the general advantages arising to society from liberal science, as restraining those rude passions which lead to vice and disorder, it is the peculiar duty of the government of a free state, where the highest employments are open to citizens of every rank, to endeavor by the establishment of schools and seminaries, to diffuse that degree of literature which is necessary to the due discharge of public trusts. You must be sensible that the war has occasioned a chasm in education, extremely injurious to the rising generation; and affords an additional consideration for extending our earliest care to their instruction."

Clinton's appeal went unheeded. But once the war ended and the last British troops left New York City, the governor tried again. On January 21, 1784, in his opening address at New York State's first regular legislative session, Clinton said:

"Neglect of the education of youth is among the evils consequent on war—perhaps there is scarce anything more worthy your attention, than the revival and encouragement of seminaries of learning; and nothing by which we can more satisfactorily express our gratitude to the supreme being for his past favors; since piety and virtue are generally the offspring of an enlightened understanding."

This time, both houses promptly pledged that education would receive their support, and the first bill was introduced in the Senate less than a full month later.

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JAMES DUANE—THE MAKING OF A PRECEDENT, 1784

There were no political parties in New York State when the Legislature began its first postwar session in 1784 in New York City. However, even without political labels or party discipline, the members of the Senate and Assembly tended to fall into one of two camps—either for or against the policies of Governor George Clinton, then at the height of his popularity.

Clinton had been reelected in 1780 without opposition. Three years later, he easily defeated two challengers, Philip Schuyler and Ephraim Paine of Dutchess County, a farmer's son turned radical preacher.

The governor drew his greatest support from small farmers and middle-class artisans and shopkeepers, especially in such Upstate counties as Ulster, Dutchess and Orange along the Hudson River and Charlotte (later Washington) in Northeastern New York. Most pro-Clinton legislators were comparative newcomers to public office. Like Clinton, they were men of humble origin with little schooling—what Robert R. Livingston tartly described as "unimproved by education and unrefined by honor." They were fiercely vindictive toward loyalist sympathizers during the war and fearful that the new state government would be gobbled up by a confederacy of "all the great and opulent families," as Clinton himself put it. Their principal polemicist was Abraham Yates Jr., a self-described "suspitious man" bent on bringing down "highflyers" like Schuyler and Schuyler's son-in-law, Alexander Hamilton. This faction went on to battle against ratification of the Federal Constitution adopted in Philadelphia in 1787.

The second faction was dominated by large landholders and well-to-do merchants and included most of the socially prominent families, like the Livingstons and Morrises, that had gone over to the cause of independence. Members of this bloc were particularly influential in and around New York City and Albany. They

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extolled the virtues of republicanism, but stopped far short of espousing popular democracy. Their chief theoretician was Hamilton, who regarded the people as too "turbulent and changing" to govern themselves wisely. He therefore proposed to check the unsteadiness of the masses by giving the wealthy and well born "a distinct, permanent share in the government." This faction opposed harsh treatment of all but the most flagrant loyalists. And, as advocates of strong central government, they led the successful campaign for ratification of the Federal Constitution during which Hamilton, John Jay and James Madison jointly wrote the *Federalist* papers.

Inevitably, the two sides had different ideas about how the state should breathe new life into education in 1784. The non-Clintonians were more aggressive, although not especially inventive.

The Assembly responded to Clinton's call to action on January 23, two days after the governor's session-opening address, by designating three of its members to prepare a bill "for the Establishment of Seminaries of Learning." But the Assembly took no further action of its own beyond creating the committee comprising former King's College teacher Robert Harpur of New York City, James Gordon, an Albany-area merchant and ally of Schuyler, and John Nicholson from Clinton's Ulster County redoubt.

On January 26, the Senate created a comparable committee made up of Lewis Morris, one of the four New Yorkers who signed the Declaration of Independence and a Westchester County manor lord whose grandfather and namesake had promoted New York's 1732 education law; Alexander McDougall, one of the most radical patriots in prewar New York who went on to become an increasingly conservative New York City banker; and James Duane, a King's College governor and leading layman of the Episcopal Church whom Clinton appointed mayor of New York City in February of 1784 in the hope that Duane, a well-connected, top-notch laywer, could put the city government on its feet after the seven-year occupation by British troops.

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Duane once said he hoped God had given him a "conciliatory talent." Whether or not God deserves the credit, Duane demonstrated such a talent many times over.

Duane, a merchant's son, had grown up in New York City as a neighbor and close friend of the De Lanceys and other unswerving loyalist families. But he later married a daughter of one of the Livingstons, the De Lanceys' conservative Whig rivals in the pre-Revolutionary period. Most of the Livingstons were Presbyterians. As a lawyer, Duane defended Anglican interests in cases that sometimes pitted him against William Livingston, an uncle by marriage. However, he generally managed to get along with both his old friends and new in-laws and often acted as an intermediary in disputes between them.

Even on the eve of the American Revolution, Duane hoped to head off a major confrontation. As a moderate member of the Continental Congress in 1775, he urged continuing negotiations with the British government, saying:

"Let this be ever considered as a family quarrel, disgraceful and ruinous into which we are innocently plunged by intolerable oppression, and which we are sincerely disposed to appease and reconcile. . ."

And, in March of 1776, he wrote to Robert Livingston that "I wish for peace if it can be accompanied by Liberty and Safety. . . I am not without hopes that the Interest of Great Britain will compel her ministers to offer us reasonable Terms."

Soon after, however, he accepted the war as inevitable and cast his lot with the advocates of independence, vowing at one point "to share the fortune of my country; to be buried in her ruins, or at every hazard to shake off fetters which were forged by her bondage." But Duane—such rich rhetoric aside—was no Tom Paine. Rather, he expected that the new nation would preserve time-tested political and social institutions as much as possible, not experiment freely with entirely new ones.

It was Duane who introduced the first education bill in the New York State Legislature.

On February 19—less than a full month after the 1784 session had begun—he sent to his Senate colleagues a measure entitled "An Act for establishing a University within this State." There is

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no legislative record of what Duane proposed. But it is apparent from Duane's close ties to King's College and a letter written to him at about this time that he resurrected the decade-old Myles Cooper plan for the American University in the Province of New York, revising it somewhat to reflect the political upheaval that had occurred since 1774.

Duane, although not college-educated, had been interested in education at least since 1762, when he was named a King's College governor. He helped draft a charter amendment in 1763 and later gave Cooper legal advice related to various college matters. Duane is not recorded as having voted on the proposed new charter sent to the Privy Council before the war. But he definitely knew about the plan and possibly helped Cooper to write it.

Part of Duane's 1784 legislation can be pieced together even without a draft of his bill through a letter sent to Duane by another college governor, John H. Livingston, who was soon to be appointed the first theology professor of the Dutch Reformed Church in America.

Livingston had originally planned to become a lawyer. However, after graduating from Yale in 1762, he became seriously ill and resolved to prepare for the ministry if he survived. His health was restored—through prayer, he later said—and Livingston went to Holland, where he earned a Doctor of Divinity degree at the University of Utrecht in 1770. During the American Revolution, he preached at churches throughout the Hudson Valley. He was named pastor of a Dutch church in New York City after the war but believed his special calling was to help prepare a better-educated clergy. He therefore spent much of his time trying to promote a Dutch theological seminary at Brunswick, N.J., or else, failing that, to establish a theology professorship at King's College when this college reopened, or at Princeton if the Presbyterians would go along.

In 1783, Livingston described his endeavors in great detail to fellow Dutch Reformed clergyman Eilardus Westerlo of Albany. The part dealing with King's College shows that Livingston hoped the new state government would reorganize the college "and then appoint a professor for our churches in that College, to

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James Duane, a State senator from New York City and the city's mayor, introduced the legislation that established the Regents of The University of the State of New York.

be supported by the funds of the College." He recognized, however, that several hurdles had to be cleared:

"1. The time may prove too long for the wants of our Church before the College in New York is properly organized.

"2. The old Charter of that College, and the funds which were given upon express condition of the operation of that Charter, will create some difficulties; these have still their friends, who will be ready to oppose, if not openly, at least by their influence, every measure which seems to prefer any persuasion or denomination above the Episcopal.

"3. The government of this State will probably wish to give no countenance at all to any denomination of Christians, lest an infringement of religious liberty should be made; and, therefore, if the College should be erected into an university, it is my opinion the science of theology will be entirely omitted."

It was natural, then, that Livingston would scrutinize Duane's bill to see how his planned theology professorship might fare. Livingston's letter to Duane indicates that he was not happy with Duane's plan.

What Duane intended, the letter suggests, was to reincorporate King's College as a university headed by regents who would automatically become the governing board for every college founded in New York. Such an arrangement, Livingston wrote, would be unconstitutional, detrimental to "the great cause of Litterature," and so complicated that practically no one would understand it.

Livingston did not object to the basic idea of having a single university system for the entire state. But he wanted to turn the governance structure around. The regents created by Duane's legislation, he said, ought to be in charge of King's College only. Any time a new college was created anywhere in New York, it would be made a part of the university. However, each college should be chartered by the Legislature, not the regents, and have its own trustees. These trustees would become regents of the university as well. "That is," Livingston told Duane, "there shall be one university in this State—as long as there is but one college, *that* is the university, and the directors of that college are of course the regents of the university—if more colleges are erected

in any part of the State, they are of course parts of the same university and the directors of such colleges might *together* with the directors of the college in this City be the regents of the university—thus the regency of the university will be composed of the directors of all the colleges—and while there is but one College, of the directors of this one alone."

The change recommended by Livingston was no doubt rooted in the fear that Duane's legislation would be tilted toward the Episcopalians. This could be accomplished simply by making them the biggest bloc among the original regents. Livingston's approach, on the other hand, would reduce the influence of the Episcopalians every time a new college was brought into the system, since other denominations could be expected to dominate the governing boards of colleges throughout Upstate New York.

Livingston did not say as much in his letter to Duane. But he did not duck the religious issue altogether. The provisions in the old King's College charter favoring the Church of England should be removed "in the very bill and not left to the discretion of the directors or regents of the university," he said. Otherwise, he added, Duane should not count on any support from the Dutch churches—then the most numerous—to get his bill through the Legislature.

The Senate took no action on Duane's legislation for more than a month. But some kind of accommodation must have been in the works, not only with Livingston, but with top state officials as well.

On March 24, a petition to the Legislature was approved by the college governing board, which had been quietly overhauled. The ranking members of the new state government replaced the "official" governors of the colonial period. These new governors were Clinton, Supreme Court Justice Richard Morris, State Treasurer Gerard Bancker, Attorney General Egbert Benson, and Secretary of State John Morin Scott. Livingston was also added to the college board, along with two other clergymen from New York City, Samuel Provoost, a King's College graduate who was soon to become rector of Trinity Church and a year later the first Episcopal Bishop of New York State, and John Rodgers, a Presbyterian pastor

who also served as chaplain of the New York State Legislature and was a trustee of the College of New Jersey. The petition was signed by these eight newly named governors plus four long-time King's College governors still on the board, Leonard Lispenard, William Walton, Samuel Bayard Jr., and Duane.

The petition suggests that Duane had won over the four men most likely to have reservations about his legislation—Clinton, Livingston, Rodgers and Scott—in exchange for assurances that no social or religious group would be given preferential treatment in the affairs of King's College or the expansible system of education to be built around it.

The petitioners pointed out that "the greater Part of the Governors of the said College have since the Commencement of the late War died out or departed this state whereby a sufficient number of Governors cannot be convened for the carrying on of the Business of the said College agreeably to its Charter—that many parts of the said Charter are inconsistent with that Liberality and that civil and religious Freedom which our present happy Constitution points out—and that an alteration of that Charter in such Points as well as an Extension of the Privileges of the said College so as to render it the Mother of an University to be established within this State would tend to diffuse Knowledge and extend Literature throughout the State.

"Your Petitioners therefore influenced by these Motives humbly submit the said Charter to the Revision and Correction of the Legislature so as to render it more adequate to these important Ends, humbly hoping that your honorable Body will confirm to the corporation of Kings College such Estate as was unquestionably appropriated to its Use."

The petition did not reach the Senate until March 30. However, on March 25, the day after the petition was adopted by the college governors, Duane's legislation was given a second reading in the Senate and was advanced to the Committee of the Whole. Floor debate began on April 16.

The Senate Journal sheds little light on any specific objections that were raised. But it shows that Yates sought to derail the bill as soon as it came up. The ever-suspicious Yates moved that no

further action be taken until the next legislative session, to be held in the fall. Meanwhile, he urged, a draft of Duane's bill should be published in newspapers throughout New York for six weeks. Yates' motion was defeated by a vote of 2-11. The majority included Duane, Schuyler and McDougall. The only senator who voted with Yates was Jacob Klock of Upstate Montgomery County (formerly Tryon).

Several amendments were then proposed and approved. The nature of these amendments and the votes are not recorded.* However, the title of the bill was changed significantly, from Duane's original "Act for establishing a University within this State" to "An Act for granting certain Privileges to the College heretofore called Kings College, for altering the Name and Charter thereof, and erecting an University within this State." The revised version was passed by the Senate on April 19 and sent to the Assembly. It was amended again in that house two days later and promptly passed. The Senate agreed to the Assembly amendments on April 27. The legislation next received final approval from the Council of Revision, made up of the governor and the three Supreme Court justices, and became law on May 1.

The new law contained bits and pieces of the 1754 King's College charter and whole hunks of the 1774 university plan, but seasoned with just enough mint-fresh ideas to make the statute seem politically palatable.

There were 10 sections in all:

Section I established the Regents of the University of the State of New York as a "Body Corporate and Politic" and assigned to the regents "all the Rights, Privileges and Immunities" previously granted to the King's College governors. It provided for three distinct kinds of regents. Eight "perpetual" regents, always to be the persons holding the offices of governor, lieutenant governor, state treasurer, secretary of state, speaker of the

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* The Senate and Assembly journals do not show how the members voted on many bills and do not always describe amendments. These will be included when available. Otherwise no reference will be made to them.

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Assembly, president of the Senate, mayor of New York City, and mayor of Albany, were made the successors to the governors who served on the old college board because of the political offices they had held in Colonial New York. Two regular regents were named from each of the state's 12 counties. The 24 county regents listed in the law were Robert Harpur and Henry Brockholst Livingston of New York County; Walter Livingston and Christopher Yates, Albany; Anthony Hoffman and Cornelius Humfrey, Dutchess; Lewis Morris and Philip Pell Jr., Westchester; Henry Wisner and John Haring, Orange; Christopher Tappen and James Clinton, Ulster; Christopher P. Yates and James Livingston, Montgomery; Abraham Bancker and John C. Dongan, Richmond; Matthew Clarkson and Rutger Van Brunt, Kings; James Townsend and Thomas Lawrence, Queens; Ezra L'Hommedieu and Caleb Smith, Suffolk; and John Williams and John McCrea, Washington. In addition, religious demoninations were authorized to "appoint one of their body to be a Regent in the said University."

Section II provided for the succession of regents other than the perpetual regents. Regents from the different counties could remain on the board until they died, resigned or moved to another county or out of the state. Their successors were to be chosen by the governor with the approval of the Council of Appointment, which was made up of four state senators chosen by the Assembly from each of the four senatorial districts. The succession of clerical regents was to be kept up by the religious denominations, not the government.

Section III created the offices of chancellor, vice chancellor, treasurer and secretary. Such officers were to be elected by a plurality of board members.

Section IV specified some board functions. It empowered the regents to establish bylaws "for the several Colleges which may or shall compose the said University"; to manage real property held by the board; to set the salaries of college presidents and other employees; and "to remove from Office any such President, Professor, Tutor, Fellow or Servant as they conceive, after a full hearing, to have abused their Trust." The regents were also given final authority for disciplining students in serious cases. No stu-

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dent could be suspended for more than 20 days or expelled without a full hearing presided over by the chancellor or, in his absence, the vice chancellor. In addition, the regents were directed to choose a president and professors for King's College when it reopened. From then on, the presidents of that institution would be "elected from out of the Professors of the several Colleges that may or shall compose the said University." No professor could be excluded from assuming the office of president because of his religious beliefs. And no faculty member could be compelled "to take any religious Test-Oath whatsoever."

Section V specified that "all the Estate, whether real or personal," transferred from the King's College governors to the regents had to be applied exclusively "to the Use of the said College."

Section VI authorized the regents to hold other property up to the value of 40,000 bushels of wheat, in addition to whatever income was produced by tuition, room rent and gifts of land. Such gifts were to be "applied in such Manner as to the said Regents shall seem most advantageous to the said University."

Section VII established the procedure for turning the one-college university into an education system spanning all New York. In effect, the regents were made creators of new institutions and inspectors of their own handiwork. They were empowered "to found Schools and Colleges in any part of this State as may seem expedient to them" and to endow such institutions. These schools and colleges would automatically become part of the university and therefore "subject to the Controul and Direction" of the regents. Moreover, committees made up of board members were authorized "to visit and examine into the State of Literature" at the regents-founded institutions and to report their findings to the full board. The regents were not given an exclusive right to found schools or colleges, however. Schools and colleges could also be created by "any Person or Persons, or any Body Politic or Corporate" in New York State. These institutions would be included in the university system only upon request of the founders and if the regents were satisfied that the endowment was adequate. In such cases, two representatives, one of whom

had to be the president of the school or college, would be added to the board as full-fledged regents.

Section VIII allowed the different denominations to appoint professors of religion to teach their particular tenets within the university system. The professorships would be established according to the wishes of the denomination provided the sponsors created a special fund for this purpose amounting to no less than "two hundred Bushels of Wheat per Annum."

Section IX distinguished between the kinds of degrees to be awarded by the regents and the individual colleges within the university. The regents were authorized to award to any students or "to any Person or Persons thought worthy" all degrees conferred by "all or any of the Universities in Europe," except for the B.A., which would be granted by college presidents to students attending their institutions. This section also provided that all fellows, professors and tutors within the university would also be *ex-officio* regents "capable of voting in every Case relative only to the respective Colleges to which they shall belong, excepting in such Cases wherein they shall respectively be personally concerned or interested."

Section X changed the name of King's College to Columbia College.

The idea of having one governing board for an unspecified number of uncreated institutions was not widely understood, as John H. Livingston had predicted. And the new regents soon discovered that the law creating them was filled with flaws. At least half the regents had to be present to conduct board business. But so few members from outlying counties were willing to make the several daylong trip to New York City, where the board then met, that there was rarely a quorum. It was not clear who should preside in the absence of the chancellor or vice chancellor. There was considerable disagreement over whether one clerical regent was supposed to represent all denominations on the board or whether each denomination was entitled to elect such a regent. The Legislature appropriated no money to enable the regents to rebuild Columbia or found and endow additional schools and colleges. And staunch partisans of Columbia were outraged that supervision of the college and its property had been handed over

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to a board dominated by uneducated Upstaters who, if not outright hostile to the college, were for the most part indifferent to its fate.

The first regents meeting was scheduled for May 4 at a Manhattan tavern. It was postponed until the next day, however, in the absence of a quorum. On May 5, 17 of the 32 members turned up, and the board promptly went to work. The regents in attendance were Governor Clinton, Lieutenant Governor Pierre Van Cortlandt, Assembly Speaker John Hathorn, and county regents Brockholst Livingston and Robert Harpur of New York County; Matthew Clarkson and Rutger Van Brunt, Kings; Lewis Morris and Philip Pell Jr., Westchester; James Livingston and Christopher P. Yates, Montgomery; James Townsend, Queens; Christopher Yates, Albany; John Haring, Orange; Cornelius Humfrey, Dutchess; John Williams, Washington; and Ezra L'Hommedieu, Suffolk.

The regents elected Clinton chancellor and Van Cortlandt vice chancellor. Harpur was chosen secretary. The office of treasurer went to Brockholst Livingston, a son of William Livingston who had become governor of neighboring New Jersey. Brockholst Livingston was also a brother-in-law of John Jay, who was still in Europe after helping to negotiate the peace treaty that ended the Revolutionary War. Brockholst Livingston, a graduate of the College of New Jersey and a rising young lawyer, was something of a thorn in the side of both his father and Jay at the time. As Jay's personal secretary while Jay was in Spain, the younger Livingston had embarrassed his brother-in-law by poor-mouthing the American government during delicate negotiations. And he infuriated his father by marrying the daughter of his (Brockholst's) landlady, an act that William Livingston regarded as a "signal disgrace" for the family.

Most of the first regents meeting was devoted to the appointment of various committees to deal with problems facing Columbia. Harpur and Brockholst Livingston were directed to collect "the records, papers, cash, leases, mortgages and other securities" that were in the possession of the King's College treasurer or any other person. Anyone refusing to yield such documents or money, the regents declared, would be sued.

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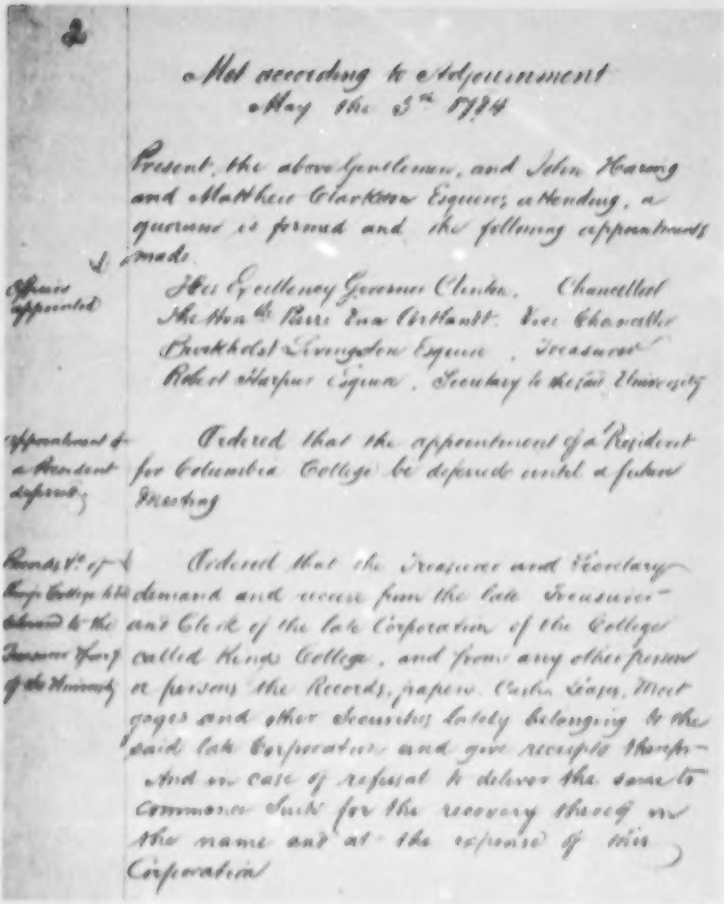

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Met according to adjournment
May the 3d 1784

Present the above Gentlemen, and John Haring and Matthew Clarkson Esquires attending, a quorum is found and the following appointments are made

Officers appointed

His Excellency Governor Clinton, Chancellor
The Hon.ble Peter Van Brugh Livingston Esqr. Vice Chancellor
Cornelius Lispenard Esquire, Treasurer
Robert Harper Esqr. Secretary to the State University

Appointment of a President deferred

Ordered that the appointment of a President for Columbia College be deferred until a future Meeting

Boards &c of Corporation of Columbia College to be delivered to the Treasurer & Secretary of the University

Ordered that the Treasurer and Secretary demand and receive from the late Treasurer and Clerk of the late Corporation of the College called Kings College, and from any other person or persons the Records, papers, Charters, Leases, Mortgages and other Securities lately belonging to the said late Corporation and give receipts therefor and in case of refusal to deliver the same to commence Suits for the recovery thereof in the name and at the expence of this Corporation

This excerpt from the minutes of the first meeting held by the Regents of The University of the State of New York lists the first officers appointed and indicates the Regents' initial concern with the affairs of Columbia College.

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Five regents, including Duane, a board member by virtue of being mayor of New York City, were appointed to supervise repairs of the college building. Another committee, including Clinton, Van Cortlandt, Harpur, Benson and Brockholst Livingston, was authorized to hire the college faculty "on such conditions as they can agree upon." Duane, Harpur and Brockholst Livingston were chosen to draft new by-laws for the college. The regents decided to send one of their members—to be chosen later—to raise funds for the college in France and other parts of Europe. And they resolved that students should be admitted to Columbia on the basis of an examination administered by the regents themselves.

The regents next met on May 15, primarily to determine how they would go about collecting money owed to King's College by people identified as having run up unpaid bills before the war. Before adjourning, however, they also voted to create a grammar school connected with Columbia. William Cochran, who then ran a private school in New York City, was selected as the first schoolmaster and, simultaneously, "temporary instructor" of Latin and Greek in the college. Similarly, John Peter Tetard became Columbia's first French teacher and was authorized to transfer the pupils from his private school to the new one. In addition, the regents agreed that tuition and "chamber rent" at Columbia would not exceed the rates set by Princeton. And they decided that the Columbia entrance exam would be administered by Cochran and Tetard in the presence of the chancellor or vice chancellor, plus any two other regents. New students would not automatically become freshmen. Rather, they would be admitted to whatever class level "they shall be found qualified to enter."

Two days later, Columbia's first student was admitted—or, more appropriately, recruited.

Fifteen-year-old De Witt Clinton, a nephew of George Clinton and himself a future governor of New York State, stopped off in New York City with his father on the way from the Newburgh area to Princeton. Duane was shocked when he found out that young Clinton was going out of state for his college education. Taking advantage of Clinton's rest stop in the city, Duane hastily arranged for George Clinton, Van Cortlandt, Harpur, Tetard and

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himself to hold a special admissions committee meeting on May 17. De Witt Clinton was brought before the board members, probably after an appeal to his father, James Clinton, a regent from Ulster County, and was given the first regents exam ever. He passed it, as was expected, and was admitted to the junior class.

There were five more meetings of various regents committees during the next five months, but no meeting bringing together the full board. By October, the regents could claim few accomplishments. They raised the total of number of students at Columbia to nine—all, like De Witt Clinton, members of the junior class. Beyond this, however, their activities were limited almost exclusively to devising fund-raising schemes. They dispatched Regent Matthew Clarkson of Kings County to France and Holland "to solicit and receive benefactions" for the University. Clarkson was also asked to contact prominent Americans abroad—notably John Adams, Benjamin Franklin and Thomas Jefferson—to get their advice about what kind of laboratory equipment should be purchased for Columbia. Meanwhile, Clinton and Duane were authorized to write letters to "friends of literature" in France and Holland urging them to assist Clarkson in his mission. In addition, Clinton and Duane were also asked to confer with a man named Arthur Noble, who had recently come to New York from Ireland, asking Noble to "correspond with such other Gentlemen in that Kingdom as they may think proper on the expediency of raising subscriptions for the use of the University of this State."

When the Legislature reconvened for its second session in the fall of 1784, it was clear that something had to be done to iron out unworkable provisions of the law that established the regents.

Clinton did not specify what he thought was wrong with the law, but he did ask the legislators to enact some changes in it. In his session-opening message on October 18, the governor noted that "it is found by experience that some of the laws of the last session, particularly the act establishing an university in this State, and the impost act, require amendment, as well as to render them more easy in their execution, as more effectual in

their operation. The officers acting immediately under them are directed to state for your information the defects which have been discovered."

The next day, the Assembly appointed a new education committee to recommend what action should be taken in response to Clinton's message. This time the three members were Walter Livingston of Albany County, Philip Pell Jr., of Westchester County and James Livingston of Montgomery County—all regents. Pell and James Livingston had attended the May 5 regents meeting, but no others. Walter Livingston had never been to a board meeting.

On October 28, Walter Livingston reported to the Assembly that the three committee members had agreed that "several parts" of the regents law "require amendment." He also reported that such amendments had been drafted, and they were introduced that day. However, after the amendments were given a second reading on October 29, there is no record of any further action on them. Nor is it known what changes the Assembly committee had in mind.

No action was taken in the Senate until November 17, when proposed amendments to the original law were submitted by Duane. Again, there is no legislative record of what Duane proposed. But it appears from later action in the Legislature that his principal purpose at the time was to pack the board with prominent residents of New York City in order to tip the balance of power away from Upstate regents.

Duane probably dug back into the 1774 university plan once more, this time reviving the Cooper-concocted proposal to create an "academical senate." Cooper had foreseen that many regents—particularly those from Great Britain—could not be expected to attend many meetings because travel was so difficult. His solution was to turn most decision-making over to 12 regents who resided in New York City, subject to review by the full board at one annual meeting.

Duane did not flag his own proposal by specifically identifying such a subgroup. But it is all but certain that he handpicked 21

men whom he regarded as the best and the brightest in the city to be added to the original board.

The new regents proposed by Duane were for the most part clergymen, lawyers and physicians.

The clergymen were: Samuel Provoost, whom Duane helped install as Trinity Church rector six months earlier; John H. Livingston, who had been designated professor of theology for the Dutch Reformed Church in October but still had no place to teach; John Rodgers, then trying to rebuild two war-damaged Presbyterian churches in the city; John Mason, another Presbyterian pastor who hoped to bring about the union of Presbyterians in the United States and Scotland; John Gano, a scholarly, long-time Baptist pastor in New York; John Daniel Gros, the Heidelburg-educated pastor of the German Reformed Church; Johann Kunze, a Lutheran minister who had studied at the University of Leipzig before coming to New York; Joseph Delaplaine, a minister of the Religious Society of Friends best known for his good works among the city's poor; and Gershom Seixas, the rabbi of the Spanish-Portuguese synagogue in New York and chief spokesman for American Jews.

The lawyers were: Hamilton, who had opened his New York City law office in late 1783; John Laurance, who had conducted the case against John Andre as judge advocate-general on George Washington's staff; and three graduates of the College of New Jersey who, like Hamilton and Laurance, had recently begun practicing law in the city—John Rutherfurd, Morgan Lewis and Aaron Burr. (Twenty years later, Lewis defeated Burr in the election for governor. The 1804 political campaign led to the Burr-Hamilton duel. Hamilton endorsed Lewis and, according to Burr, depicted Burr as a "dangerous man and one who ought not to be trusted with the reins of government.")

The physicians were: John Cochran, a former president of the New Jersey Medical Society; Charles McKnight, surgeon general and the American army's chief physician during the Revolutionary War; Thomas Jones, who, like Duane, had married into the socially prominent Livingston family; Malachi Treat, who had practiced medicine in the city since the late 1760's; and Nicholas

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Romayne, who had studied at the King's College Medical School before the war.

The two others on Duane's list were Leonard Lispenard, a New York City merchant who had been named to the King's College Board of Governors in the 1754 charter and was the college treasurer; and Jay, who had recently been given a hero's welcome upon his return to the city after an eight-year absence.

The Senate took up Duane's amendments on November 19, two days after he had introduced them. Debate did not deal initially, however, with how many regents there should be or who they should be, but with how much money—if any—the state should spend on education.

The first motion was made by L'Hommedieu, one of the original regents as well as a state senator from Suffolk County. L'Hommedieu proposed that funds be granted to the regents—the amount was not specified—"for the use of Columbia College." His motion was debated and passed, 9-3. The three senators from New York City who were present—Duane, McDougall and Isaac Roosevelt—supported L'Hommedieu, along with Samuel Townsend, Isaac Stoutenburgh, Joseph Gasherie, Jacobus Swartwout and Andrew Finck Jr., all from rural counties. The negative votes were cast by Abraham Yates Jr., then president of the Senate, and two senators from the mid-Hudson Valley, Ephraim Paine, the radical democrat who had been defeated for governor in 1783, and William Allison.

L'Hommedieu then proposed to set the state funding of Columbia at 2,552 pounds. Yates countered by trying to cut the amount by about 60 percent, to 1,000 pounds. This motion was defeated, 5-9. Finck and Swartwout switched to Yates' side, joining Paine and Allison. But two other senators not listed as voting on the first proposal, Lewis Morris and John Haring, both regents, joined L'Hommedieu, Duane, McDougall, Roosevelt, Townsend, Stoutenburgh and Gasherie in opposing the cut.

The grant of 2,552 pounds was then approved, 8-6. The pro-Columbia bloc this time was made up of L'Hommedieu, Duane, McDougall, Roosevelt, Morris, Haring, Townsend and Stouten-

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burgh. Fighting the funding were Yates, Paine, Allison, Finck, Swartwout and Gasherie, a cross-over.

Finck then tried to go one step further. He proposed adding a provision to assist schools in Upstate New York in the bargain. This motion would have authorized the Legislature to distribute state funds to "the different Congregations on the Frontiers of this State, to enable them to rebuild their Churches, and for the Establishment of Schools among them."

Finck had grown up among illiterate German immigrants in the Mohawk Valley. However, a British officer who was drilling militiamen in the area took an interest in young Finck and arranged for him to study in New York City. Finck hoped to become a lawyer. But he abandoned his preparation for the law when the war broke out, fought the British at Saratoga and in other battles in Upstate New York and rose to the rank of major. Once peace was restored, Finck prodded the German farmers around his native Stone Arabia to found schools to teach their children English. He even founded one for them. But Finck ran into hostility from people set in their ways and eventually was forced to close his school.

Finck had no more success with his Senate colleagues than he did with his German neighbors. Yates was the only senator to back his motion.

Some other changes were made the same day, and Duane's revised legislation was passed by the Senate on November 20 and sent to the Assembly. The bill apparently ran into opposition in that house. But it was approved on November 25, after being amended again, and then was sent back to the Senate, which agreed to the Assembly changes a day later. The Council of Revision added its approval on November 27, and the bill became law.

The final version listed 33 new regents, not 21. The names of 13 more board members, presumably added by the Assembly, were squeezed into the bill after the last name on Duane's list or in the left-hand margin. These new board members were all from outside New York City. They were: Peter W. Yates, Matthew Visscher and Hunlock Woodruff of Albany County; George J. L.

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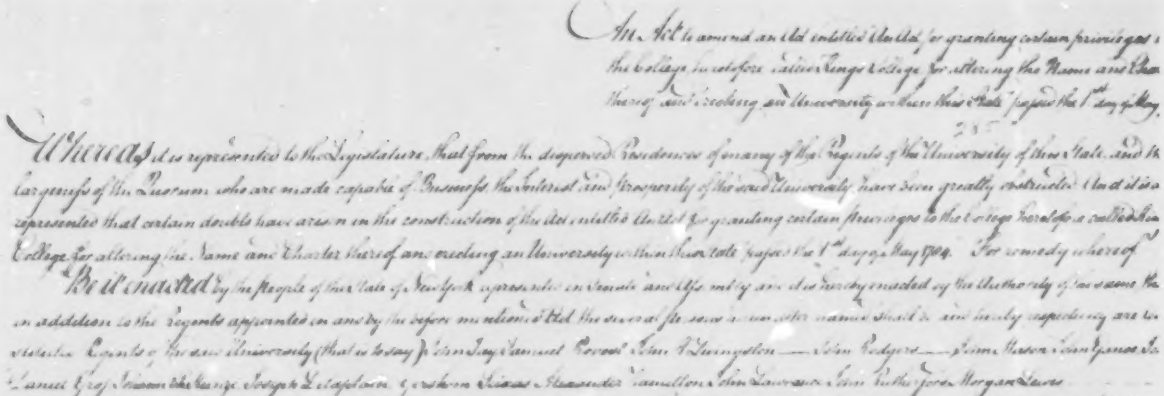
Alexander Hamilton, left, and Aaron Burr, right, might have become fellow members of the Board of Regents 20 years before their duel except for a mystery-shrouded, last-minute decision in the Legislature.



An Act to amend an Act entitled An Act for granting certain privileges to the College heretofore called Kings College for altering the Name and Charter thereof and erecting an University within this State passed the 1st day of May

Whereas it is represented to the Legislature that from the dispersed Residences of many of the Regents of the University of this State and the large proportion of the Quorum who are made capable of Business for the Interest and Prosperity of the said University have been greatly embarrassed And it is also represented that certain doubts have arisen in the construction of the Act entitled An Act for granting certain privileges to the College heretofore called Kings College for altering the Name and Charter thereof and erecting an University within this State passed the 1st day of May 1784. For remedy whereof

Be it enacted by the People of the State of New York represented in Senate and Assembly and it is hereby enacted by the Authority of the same That in addition to the Regents appointed in and by the before mentioned Act the several persons whose names shall be and hereby respectively are inserted as Regents of the said University (that is to say) Governor Clinton Chancellor Livingston — John Rodgers — James Watson John Lynsen Esq Samuel Jones Esq Recorder of the City of New York Egbert Benson Alexander Hamilton John Lawrence John Rutherfurd Morgan Lewis Edward Livingston Richard Varick Abraham Ogden Charles Williams Knight Thomas Jones Matthew Clarkson and Nicholas Romaine of New York Peter W Yates Mathias Ten Eyck and Francis Harding of Albany Jacob Ford Esq of Ulster John Vanderbilt of Kings County that the said twelve Regents hereby appointed shall enjoy the same Power and Authority as are granted to and vested in the other Regents appointed by the said recited Act fully and effectually to all Intents and Purposes as the said other Regents

And be it further enacted by the Authority aforesaid That it shall and may be lawful to and for the Chancellor of the said University and in his Absence the Vice Chancellor who in the absence of both the Regents next Nominated in the order in which they are inserted together with any two or more of the Regents duly convened to form a Quorum of Regents for the dispatch of the Business and Affairs of the said University which Act and Proceedings shall be as valid and effectual to all Intents and Purposes as if all the Members of the said University were actually present Provided always That

This part of the November 1784 legislation shows the addition of Alexander Hamilton to the Board of Regents. The name of Aaron Burr was erased at the end of the eleventh line from the top, the line on which Hamilton's name appears.

Doll, Ulster; John Vanderbilt, Kings; Thomas Romain, Montgomery; Samuel Buel, Suffolk; Gilbert Livingston, Dutchess; Nathan Kerr, Orange; Ebenezer Lockwood, Westchester; John Lloyd Jr., Queens; Harmanus Garrison, Richmond; and Ebenezer Russell, Washington.

With one exception, Duane's original New York City contingent was left intact. The exception was Burr, whose name was erased, probably at the last minute. It is not clear whether Burr did not want to be a regent or whether someone blocked his appointment. Burr was not a controversial figure in 1784. He was a newly elected member of the Assembly distinguished in that capacity only by a poor attendance record. He sponsored no significant legislation during the October-November session and rarely participated in floor debate. He was not yet an enemy of Hamilton. And, with a good war record and a burgeoning law practice, he had more-than-adequate credentials for becoming a regent in those days. Moreover, he had graduated from the College of New Jersey with distinction and was the son of one of that college's presidents, the Rev. Aaron Burr, and the grandson of another, theologian and revivalist Jonathan Edwards, who held the post briefly after the death of the elder Burr.

Even with the deletion of Burr's name, there was a net gain of seven regents for the city. This gain was accompanied by a new provision making the quorum for board meetings only nine members instead of half the total number of regents. Moreover, the law specified that there would be an annual regents meeting each July at which "Acts and Proceedings of the Regents. . .shall be reported and examined," suggesting that Duane intended to have the city bloc serve as a *de facto* academical senate even though such a group was not actually authorized. However, as part of an apparent compromise with Upstate lawmakers, the November law also required that the dates of regents meetings be published in the newspapers at least two weeks in advance "to give all the Regents within a convenient Distance an Opportunity of attending."

In addition, this statute established the order in which regents would preside in the absence of the chancellor and vice chancellor. It also clarified the original provision dealing with clerical

representation by permitting "the Clergy of each respective religious Denomination in this State. . .to elect one of each of their respective Bodies to be a Regent of the said University" and to choose their successors.

Finally, the state treasurer was directed to "advance to the Treasurer of the said University for the Use of Columbia College a Sum, not exceeding Two Thousand Five Hundred and Fifty-two Pounds."

ALEXANDER HAMILTON—FAR FROM THE MADDING CROWD

Practically nothing that happened at Columbia College for the next 2 1/2 years was too inconsequential to warrant the regents' rapt attention. They managed the college's property holdings. They raised money. They devised the curriculum. They chose the faculty. They even dealt with such problems as what the college janitor should do and at what salary, and how much firewood and how many kitchen utensils Columbia needed.

The board originally had hoped to lure a renowned European scholar to New York to be the college president. One of the scholars they considered in November of 1784 was Joseph Priestley, the English clergyman, teacher and scientist who had discovered oxygen a decade earlier. However, the regents concluded in April of 1785 that they could not afford an adequate salary "as will be an inducement to a respectable Character to accept of the office of President." Instead, faculty filled the office by rotation for a month at a time.

The original regents did not draw a line between being college trustees and being college administrators. In some cases, in fact, they were Columbia professors as well. As a result, the regents became so bogged down in day-to-day college affairs that they never got around to doing anything to encourage education elsewhere in the state until irate legislators and some regents, too, threatened to dismantle the board and replace it with a brand new one.

With the possible exception of James Duane, the most influential regent at the time was Alexander Hamilton.

An aristocrat by temperament, Hamilton abhorred mobs, feared popular democracy and loathed low-born government leaders like Ephraim Paine and Abraham Yates Jr., once an Albany shoemaker. Paine he said, was boorish, obstinate and "as primitive in his notions as in his appearance," while Yates was "a man whose ignorance and perverseness are only surpassed by his

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pertinacity and conceit." Hamilton believed—to vary a catchphrase coined later—that what was good for General Schuyler was good for the country, as suggested by a speech Hamilton made while campaigning for ratification of the newly drafted Federal Constitution:

"Look through the rich and the poor of the community; the learned and the ignorant. Where does virtue predominate? The difference indeed consists, not in the quantity, but the kind of vices, which are incident to the various classes; and here the advantage of character belongs to the wealthy. Their vices are probably more favorable to the prosperity of the state than those of the indigent, and partake of less depravity."

Like most other regents in his day, Hamilton had never spent much time in the classroom. His formal education was limited to only short stints at a Jewish school in the West Indies, where he was born, a private academy in New Jersey, and finally King's College.

John Adams once described Hamilton—harshly but not inaccurately—as "the bastard brat of a Scots pedlar." Hamilton was, in fact, the second of two illegitimate sons of James Hamilton, the descendant of wealthy Scotch landowners, who had gone to the West Indies to become a merchant, and Rachel Levine, who lived with him after the break-up of her marriage to a German-Jewish businessman in St. Croix. James Hamilton walked out on her, however, and she and the two young children were forced to scrape by as best they could.

Hamilton's mother, seeing genius in Alexander, tutored him and sent him to the Jewish school on the island of Nevis for a while. Later, she got him a job as a clerk in the St. Croix import-export office of Nicholas Cruger from New York City. When Cruger went back to New York for a year, Hamilton, only 16 years old, ran the office in his absence. But Hamilton was convinced that his talents destined him to go on to far greater heights than shopkeeping.

In 1772, a severe hurricane struck the St. Croix area, and Hamilton wrote an account of the devastation that was published in a local newspaper. The Rev. Hugh Knox, a newly arrived Presbyterian minister and graduate of the College of New Jersey,

was so impressed by the account that he decided to help the young author further his education. Knox apparently persuaded Cruger to pay part of the cost of educating Hamilton in America. In addition, Knox provided Hamilton with letters of introduction to friends in New Jersey, including William Livingston, who had recently moved there from New York, and Presbyterian ministers John Rodgers and John Mason, who were to become regents at the same time as Hamilton in 1784.

Hamilton enrolled at Francis Barber's academy at Elizabethtown, N.J., lived with Livingston, and became acquainted with John Jay, who was soon to marry Livingston's daughter, Sarah.

After studying at the academy for less than a year, Hamilton decided in the spring of 1773 that he was ready for more advanced learning and applied to the College of New Jersey. He was then 18, older than most college freshmen in colonial times, and expected to be admitted as an accelerated student able to move along as rapidly as his abilities allowed. (Aaron Burr had graduated from the college in three years at the age of 16 in 1772.) But the trustees refused to grant Hamilton special consideration. When President John Witherspoon advised Hamilton that he would have to be a freshman after all, Hamilton, staying with a friend in New York City at the time, applied to King's College. He was accepted there as a special student, meaning he was not made a member of a particular class.

Different accounts show Hamilton entering the college in different years. A letter written by one of Hamilton's closest friends, Robert Troup, says he began his studies at King's College in 1773. But college records list him as being admitted a year later. Either way, Hamilton was a student on a tight budget. According to Robert Harpur's account book, Hamilton was unable to pay the tutor's fee when he started studying mathematics with Harpur in September of 1774. But Harpur taught him anyway, and Hamilton repaid the debt, with interest, in 1783.

While at the college, Hamilton divided his time between his studies and rebutting such loyalist pamphleteers as Samuel Seabury and Myles Cooper at rallies and in political tracts of his own.

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But, opposed as he was to what these loyalists thought, he objected even more to the acts of vengeance-minded mobs stirred up by fiery patriots like Alexander McDougall and Isaac Sears. In addition to saving Cooper from a Sons of Liberty-led mob, Hamilton later sought—without success this time—to head off another mob that wrecked the New York City shop of Tory printer James Rivington.

Unlike Duane, Hamilton was eager to go to war. In 1775, he joined a volunteer company known as the Corsicans and attended early-morning military drills before going to his first college class. He was appointed captain of a New York artillery company a year later and was an aide to George Washington from 1777 until 1781, often giving advice—solicited or not—to his superior. One of his missions for General Washington took him to Albany, where he met General Schuyler's daughter, Betsey, whom he married in 1780, thus entering "one of the best families of this country," as he later bragged.

Because of the war, Hamilton did not complete his King's College studies. But Columbia awarded him an honorary A.M. in 1788.

Even before he was made a regent, Hamilton tried to promote Columbia's interests through a personal appeal in support of board member Matthew Clarkson's overseas fund-raising mission in the summer of 1784. Hamilton gave Clarkson a letter of introduction to a wartime friend, the Marquis de Chastellux, an army officer and chronicler of American customs while in this country from 1780 to 1782. Hamilton urged him to welcome Clarkson as "a messenger of Science" and to assist the regent in "an undertaking for the benefit of a Seminary of learning lately instituted in this state." Learning, Hamilton added, "is the common concern of Mankind; and why may not poor republicans who can do little more than wish her well, send abroad to solicit favours of her patrons and friends?"

He should have checked with Jay first. Only two months earlier, Jay, then in France, had warned Princeton President Witherspoon that other American colleges already had representatives on similar missions and that anyone else was bound to collect very

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little money. At best, Jay wrote, future fund-raisers could expect to get books from Frenchmen "zealous to extend the reputation of French literature." Clarkson did not even do quite that well. He returned to New York in the fall with nothing more than a halfhearted promise of some books from Benjamin Franklin.

Once on the board, Hamilton—not yet 30 years old—plunged into nearly every activity of the regents. Between November 30, 1784 and March 29, 1787, he helped to collect back bills, tap new sources of income, audit college expenditures, lease college-owned land, seek a president, prepare the curriculum, appoint the teachers, and even investigate a report that the professor of French, John Peter Tetard, had gone insane. All told, Hamilton attended 22 of 39 board meetings. And he was a member of 13 different regents committees.

Only six other regents—all from New York City—attended more meetings than Hamilton. They were Harpur, who was present 38 out of 39 times; Rodgers, 32; John H. Livingston, 29; Brockholst Livingston and Mason, 27 apiece; and Duane, 26. Most Upstate regents attended rarely, if at all. And there was only one meeting before 1787 in which the board showed any interest in educating anyone but the sons of New York's *cordon bleu*-bloods.

The regents' preoccupation with Columbia soon led to their undoing.

Proposals for establishing new educational institutions began to go to the Legislature, rather than the regents, as early as 1785. The first legislator to bypass the board was Burr. As a member of the Assembly, Burr introduced "An act for the encouragement of literature" in February of that year, three months after his name was removed from Duane's 1784 legislation that doubled the number of regents. The contents of Burr's bill are not known, and the measure was never debated by the full Assembly. But Burr set a precedent for slighting the regents or challenging their leadership head-on.

Six weeks later, the regents were dealt a second, more serious setback when George Clinton quit as chancellor. He attended the April 4 board meeting only long enough to hand-deliver a terse

letter of resignation saying, "I do hereby resign the place of Chancellor of the University of the State of New York." While Clinton gave no reason for his action, the governor probably wanted to put distance between himself and socially short-sighted regents. He did something similar soon after, resigning from the Society of the Cincinnati, a fraternity-like clique of Revolutionary War officers, when the society—like the board—came under the control of Hamilton and other peacetime political foes.

Despite early warnings that they were headed for trouble, the regents took no formal action unrelated to Columbia until February of 1786, when they created a committee "to consider Ways and Means of promoting literature throughout the State." The committee was established at the urging of John H. Livingston, apparently the first Duane-designated regent to do more than fret about the immediate needs of the college. The board had asked Livingston to be Columbia's professor of moral philosophy several months earlier, but he refused, saying such an appointment would interfere with other "indispensible duties." Whatever these duties were, they must have been compatible with the purposes of the new committee, since he became a committee member along with 13 other regents—Rodgers, Mason and Brockholst Livingston from New York City, and Peter W. Yates, Albany; Lewis Morris, Westchester; Henry Wisner and John Haring, both Orange; James Livingston, Montgomery; John C. Dongan, Richmond; Clarkson, Kings; James Townsend, Queens; John Williams, Washington; and Ezra L'Hommedieu, Suffolk—plus Schuyler. The inclusion of Hamilton's father-in-law suggests that Hamilton might have bent the rules to suit his purposes. Schuyler was not a regent, and every other committee until then had been made up of board members only.

Regents minutes contain no further reference to the committee. But two of the members—Williams and L'Hommedieu—joined forces as members of the Senate to help slip a bill through the Legislature that led to the founding of New York's first state-sanctioned private academy, Erasmus Hall in Brooklyn.

Williams was a prosperous merchant and large landholder in Northern New York. Like Hamilton, he had started out poor and

married well. However, he pursued a different path to political power, building a reputation as a protector of frontier farmers against the "manor influence." L'Hommedieu, a lawyer from eastern Long Island and old friend of Clinton, had been largely responsible for getting the Legislature to grant funds to Columbia in 1784. But he showed no further interest in the college, stayed away from all but a handful of regents meetings after Clinton resigned as chancellor, and finally spearheaded a drive to reconstruct the board.

On March 15, 1786, the Senate appointed Williams, L'Hommedieu and Isaac Stoutenburgh to prepare a bill that would enable songwriters to copyright their music. The three committee members drafted an innocuous-seeming bill entitled "An act for the encouragement of literary performances." It was quickly passed by the Senate and sent to the Assembly, which made some changes and gave the measure a new title, "An act to promote literature." The Senate agreed to the changes, and the revised bill became law on April 29. The new law provided that all authors, not just songwriters, were entitled to the profits from the sale of their works. In addition, there was an unrelated provision buried at the end authorizing the trustees of the Dutch Reformed Church in Flatbush to sell six acres of land "for the express purpose of erecting an academy."

The regents did not meet between April 24, 1786 and January 31, 1787. In the interim, the Legislature must have warned that it expected the board to mend its ways, since one of the regents' first actions when they reconvened was to pick eight members to make some quick decisions about what the board ought to be doing—or not doing—from then on.

The regents tapped for this assignment were Duane, Hamilton, Jay, Rodgers, Mason, Clarkson, John H. Livingston, and John Daniel Gros. Gros was also Columbia's teacher of German and geography.

The new committee was directed "to take into consideration the present state of the University and to report as soon as possible the measures necessary to be adopted to carry into effect the views of the Legislature with respect to the same and particularly with respect to Columbia College." But the members went

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much further, proposing a state policy embracing academies and public schools as well as recommending radical changes in the governance of higher education.

The committee met at least twice, completed its report within two weeks and submitted it to the board on February 15 along with a proposed legislation for implementing the recommendations. The draft bill has disappeared. But the report was preserved in the regents minutes.

Hamilton has long been regarded as the author of the report. However, other committee members undoubtedly contributed to it and probably initiated the proposals related to academies and schools. Moreover, Duane not Hamilton, was the committee chairman.

The report contained three sections dealing with each level of education successively:

Colleges—These recommendations called for a significantly different relationship between the regents and individual colleges. Under the new arrangement, the regents would no longer run Columbia or any other college. Instead, all colleges in New York State would have their own boards of trustees which would be self-perpetuating. But the committee did not leave off with a system under which it was each college for itself. It also proposed to make the governing board of every college subject to the authority of the regents. The committee report did not say what powers the regents would have over such boards. But the draft bill presumably did.

"At present the Regents are the only Body Corporate for literary purposes," the report said. "In them are not only the funds, but the government and direction of every College are exclusively vested, while from their dispersed situation it must be out of their power to bestow all the care and attention which are peculiarly necessary for the well being and prosperity of such Institutions. Experience has already shewn that Regents living remote from each other cannot with any convenience form a Board for business. The remedy adopted by the second act (November of 1784) was to reduce the quorum to a small number, but thus placing the rights of every college in the hands of a few individuals, your committee have reason to believe

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excited jealousy and dissatisfaction when the interest of literature require that all should be united. These reasons without entering into a more full discussion your committee conceive to ground their opinion that each respective College ought to be entrusted to a distinct Corporation with competent powers and privileges, under such subordination to the Regents as shall be thought wise and salutory."

This section seems to be the handiwork of Hamilton in particular, although it probably granted less authority to the regents as a central governing body than Hamilton may have advocated during the committee deliberations. Only four months later, in a five-hour speech at the Constitutional Convention in Philadelphia, Hamilton urged the other delegates to create a strong national government and to curb the powers of state governments. This would have been accomplished through the indirect election of a life-tenured chief executive who would appoint the governors of each state. These governors would have been able to veto acts passed by their state legislatures even if the vote in the legislature was unanimous.

(Remaining Hamilton papers do not deal directly with Hamilton's activities as a regent. But his son, John Church Hamilton, wrote an intriguing account in his *Life of Alexander Hamilton*, published in 1841. According to the younger Hamilton, his father believed the decision to vest the King's College property in the regents, rather than a separate college board, "violated a great principle of justice." But he objected to the provisions of the 1784 legislative acts that allowed college founders, presidents and teachers to become regents on the ground that "the control of education would soon have been wrested from the state, and would have passed into the hands of those either least apt to detect, or most interested in concealing abuses." What Hamilton contemplated, his son said, was "a state establishment for public instruction, excluding all clerical and individual influence." John Church Hamilton was only 12 years old when his father was killed in the duel with Burr, so these views must have come secondhand. But they are consistent with the committee report and some subsequent decisions by the regents.)

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Academies—The likely instigator of these proposals was Livingston, a co-founder of Erasmus Hall and the first principal of this academy when it opened later in 1787. But most committee members had shown at least some interest in academies. Clarkson and Mason were to be designated as two of the original Erasmus Hall trustees. And Duane, Hamilton and Jay had all contributed to the academy's first fund-raising campaign in 1786.

This part of the report read:

"Your committee are of the opinion that liberal protection and encouragement ought to be given to academies for the instruction of youth in the languages and useful knowledge; these academies though under the grade of Colleges are highly beneficial, but owing their establishment to private benevolencies labor under disadvantages which ought to be removed; their property can only be effectually preserved and secured by vesting them in incorporated trustees. . . .—Your committee also conceive that privileges may be granted to such academies which will render them more respectable, and be a strong encitement to emulation and diligence both in the Teachers and Scholars."

Public Schools—A committee appeal for government support of public schools was tacked on as something of an after-thought and may have grown out of the letter Jay wrote to Witherspoon in 1784. In his letter, Jay said that "universities, etc., ought no longer to be regarded in the light of mere private corporations. The government should extend to them their constant care; and the State treasuries afford them necessary supplies." The committee report read:

"But before your Committee conclude they feel themselves bound in faithfulness to add that the erecting Public Schools for teaching reading, writing and arithmetic is an object of very great importance which ought not to be left to the discretion of private men but be promoted by public authority. Of so much knowledge no citizen ought to be destitute and yet it is a reflection as true as it is painful that but too many of our youth are brought up in utter ignorance. This is a reproach under which we have long labored unmaned (?) by the example of our neighbors, who not leaving the education of their children to chance have widely diffused throughout their State a public provision for such instruction."

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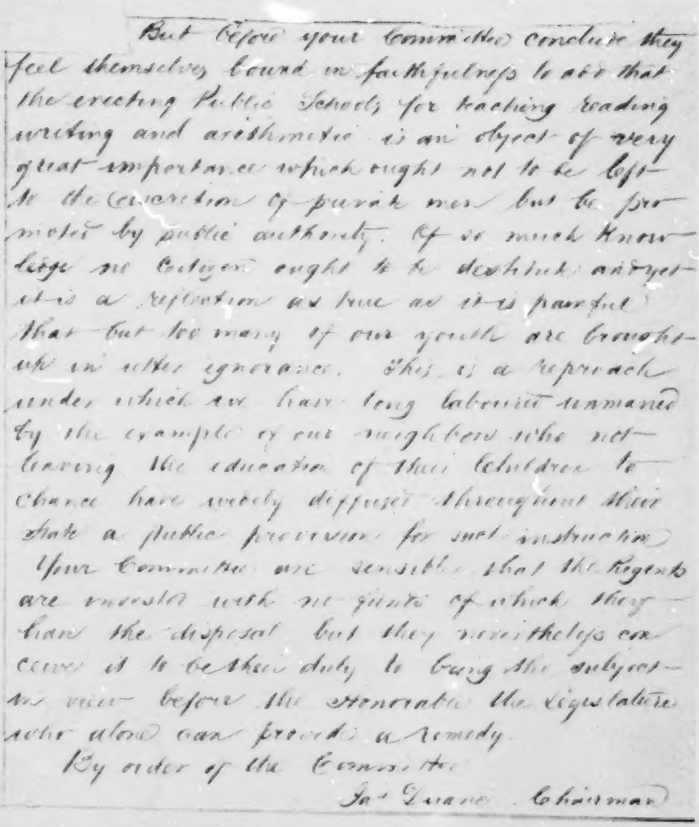

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Your Committee are sensible that the Regents are invested with no funds of which they can dispose but they nevertheless conceive it to be their duty to bring the subject in view before the Honorable the Legislature who alone can provide a remedy.

By order of the Committee

Jas Duane Chairman

The Regents committee including Alexander Hamilton, James Duane and John Jay completed its report dated February 15, 1787, by proposing that schools "be promoted by public authority."

The regents present at the February 15 meeting included four committee members—Duane, Mason, Rodgers and Livingston—plus Harpur and Brockholst Livingston; Assembly Speaker Richard Varick, who presided at the meeting; five Upstate board members—Williams, Ebenezer Russell of Washington County, Ebenezer Lockwood of Westchester, Cornelius Humphrey of Dutchess and Caleb Smith of Suffolk—and a half-dozen Columbia faculty members. These regents approved the committee report and directed that the draft bill be sent to the Legislature. The bill was introduced the next day by Hamilton, a newly elected member of the Assembly.

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EZRA L'HOMMEDIEU— DISENGAGEMENT WITH HONOR

During February and March of 1787, the future of the regents depended largely upon a test of strength pitting Alexander Hamilton against Ezra L'Hommedieu as the sponsors of rival legislation.

Like Hamilton, L'Hommedieu was a lawyer, legislator and regent. But the similarities between them stopped there. Unpretentious, practical-minded and deeply rooted to his native Long Island, L'Hommedieu was not a nation-builder, or even much interested in trying to reach the top of the political heap in New York State. He spent a great deal of time, especially in his later years, experimenting with new farming methods, including the use of fish for fertilizer, and was one of the founders and first officers of the Society for the Promotion of Agriculture, Arts and Manufactures, later the State Agricultural Society. What political power he did hold came almost in spite of him. However, as Hamilton discovered, he could be tough, and even vindictive.

L'Hommedieu was the descendant of a French family that traced its origins back to the Crusades. His paternal grandfather, a Huguenot, fled to New York after the revocation of the Edict of Nantes and settled in Southold, near the northeastern tip of Long Island, where he became a prosperous food merchant and miller. L'Hommedieu's father, Benjamin, was the captain of a ship that carried goods between New York and New England. He married Martha Bourne, the daughter of a Cape Cod judge, in 1730. Ezra was born four years later, was schooled at Southold and sent to Yale, graduating in 1754, the year before Hamilton was born.

After a trip to France in 1755, L'Hommedieu rarely traveled beyond Suffolk County, where he had established his law practice, until 1775, when he was elected to the New York Provincial Congress. From then on, he played an increasingly conspicuous role in the affairs of the new state and nation, serving in the Assembly from 1777 until 1782, and in the Continental Congress

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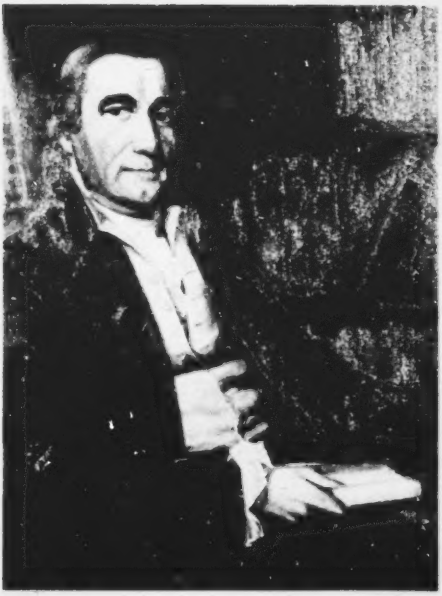

Ezra L'Hommedieu, a State senator from Long Island, became the champion of the academies during the 1787 legislative session, during which the functions of the Regents were radically redefined.

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from 1779 until 1788. He also became a close enough crony of George Clinton to correspond with the governor about the private lives of other public officials as well as about the affairs of state. For example, when Hamilton was in Philadelphia as a member of the Continental Congress in 1783, Clinton confided to L'Hommedieu that "Hamilton is all impatience to be released. His lady hourly expects him home. She is young and ought not to be disappointed."

In 1784, L'Hommedieu became Suffolk County clerk and a member of the Senate simultaneously. In addition, he was chosen by his fellow legislators as one of the four senators making up the powerful Council of Appointment, which controlled patronage in the new state government. But L'Hommedieu had no taste for distributing political plums. In a letter to John Tayler, an Albany merchant and later lieutenant governor, he lamented:

"I am at present in a very disagreeable Scituation which however I trust will not last long. Being one of the Council of Appointment & so many Persons having Pretensions to lucrative offices that I am sure of making Ten Enemies to one Friend in all such appointments. . .You will be surprised to see the great Number of Applications for every office of Profit, every one claiming great merit by services rendered their Country and great sufferings and great sacrifices made in Property (this between us)."

Tayler found L'Hommedieu's discomfort amusing, as indicated by a second letter L'Hommedieu wrote on the same subject:

"I perceive you make yourself a little merry with my misfortune not being one of the Council of Appointment. I wish you were in my situation in that respect, which would make me laugh in my Turn. Applications for Lucrative offices are very numerous, alleging their great sufferings and merits. And altho the Council may be *virtuous men* as you are pleased to call them, they cannot comply with your Scripture, as not more than One in Twenty *who ask can receive*—especially offices of Profit. The consequence is, you are liable to make Nineteen Enemies to One Friend."

Just one week before the regents committee completed its report in February of 1787, a petition was sent to the Senate by Suffolk County residents seeking a charter for an academy that

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had opened at East Hampton in 1785. This was Clinton Academy, named after the governor. One of the petitioners was Samuel Buel, the principal of the academy and one of the 13 regents added to the board by Upstate legislators in 1784 to offset the New York City bloc that included Hamilton.

The petition was sent to a Senate committee headed by L'Hommedieu. The committee members were Thomas Tredwell, also of Suffolk County, who had served with L'Hommedieu on the Assembly committee that recommended the founding of colleges at Kingston and Schenectady in 1779; Isaac Stoutenburgh, who had worked with L'Hommedieu on the 1786 "copyright" bill that aided the establishment of Erasmus Hall; and John Vanderbilt, another regent and one of the main benefactors of Erasmus Hall.

The four senators issued no recommendations until February 27, 11 days after Hamilton had introduced the regents' bill in the Assembly. The Senate committee did not suggest simply granting a charter to Clinton Academy. Instead, it drafted a sweeping plan proposing to repeal the laws of 1784 and to start all over with different regents having different functions. This plan was sent to the full Senate by L'Hommedieu as "An act for erecting an University and for granting priviledges to Colleges and Academies within this State and for repealing the acts therein mentioned."

The Senate bill was pirated, in part at least, from Hamilton's legislation, which had been kept bottled up in the Assembly. But it also contained provisions that must have horrified Hamilton.

(Several drafts of the Senate bill were available at the State Library in Albany until 1911, when they were destroyed in a fire. However, Sidney Sherwood sketched some of the recommendations in his book, *The University of the State of New York: History of Higher Education in the State of New York*, published in 1900. According to Sherwood, the Senate drafts were in L'Hommedieu's handwriting. Also in L'Hommedieu's handwriting, he said, were notations indicating that entire sections had been lifted from the Assembly version. But Sherwood was unable to uncover the Hamilton bill. He concluded, however, that "the Clintonian opposition" had kept Hamilton from getting his bill passed and

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that L'Hommedieu "seized the opportunity offered by this petition [for chartering Clinton Academy] to prepare a measure for reorganizing the university upon a broader basis.")

L'Hommedieu proposed in the Senate bill to have regents plus separate trustees for every college and academy. This was consistent with what Hamilton had in mind. But L'Hommedieu had different ideas about how the regents and trustees should be appointed and what their respective responsibilities should be.

Hamilton no doubt intended for the regents to represent the interests of the entire state, as distinct from the interests of regions of the state or individual institutions. But L'Hommedieu planned to continue the county-by-county representation, even including every mayor and the ranking judicial official within each county as a regent *ex officio*. He did decide, however, that no college or academy trustee, president or teacher should ever again serve as a regent simultaneously.

L'Hommedieu also upset Hamilton's sense of symmetry in a crucial area by proposing to treat colleges and academies differently. The academies would have been given considerable freedom to run their own affairs under the supervision of local, self-perpetuating trustees, subject to some review by the regents. But Columbia and all other colleges to be included within the university would have been saddled with such strict government control that they would amount to state institutions for all intents and purposes.

In what seems like a punitive maneuver, L'Hommedieu put in his first draft a provision empowering the governor and Council of Appointment to pick Columbia's trustees. He then softened this somewhat by making the college board self-perpetuating. But he changed his mind again and finally gave the Legislature the authority to appoint the original Columbia trustees and to fill all vacancies in the future. Once L'Hommedieu settled on this arrangement, he specified that it would also apply to all colleges founded from then on.

Similarly, his first draft proposed to give the regents the right to veto all "ordinances and by-laws" adopted by the Columbia trustees "for the government of Columbia College and for the

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management of its estate." This was also revised to require instead that the trustees of all colleges "lay before the regents of the said university from time to time the plan or system proposed to be adopted for the education of the pupils and students in each of the said colleges, in order that the same may be revised and examined by the said regents, and by them be altered and confirmed as they shall judge proper."

In addition, the first draft provided that Columbia would be subject to "the visitation of the regents of the university, or a committee from them, who may, as often as the regents shall judge necessary, examine into the funds of the said college, the mode of education, and the progress in literature made by the students, as well as of the learning, abilities, and conduct of the different professors and tutors." The final version of the draft said it would be "lawful to and for such visitors to inspect and examine into the state of literature and the progress of the students in any of the said colleges, and into the discipline, government, management, laws, and statutes thereof" and to report the findings to the Legislature if the regents so chose.

Academies, meanwhile, would also be visited by committees of regents once a year to determine "the state and progress of literature therein." But even here, L'Hommedieu showed a clear bias toward academies, proposing to treat their better graduates as the equals of students who attended Columbia or other colleges. As part of the annual visits, he specified, the regents would be authorized "to confer the degree of bachelor of arts on such students of such academies as they shall judge deserving of the same, or to direct that such degrees be conferred on such students by the president of any college subject to their visitation."

The terms laid down by L'Hommedieu were unacceptable to Hamilton and his allies among the regents and in the Legislature. They had the votes to block L'Hommedieu's legislation. But they could not get their own bill passed without his help. Therefore, it was in their interest—and L'Hommedieu's, too—to try for a compromise.

On March 8, the regents appointed yet another committee, this one made up of six members representing both factions, although not in equal numbers. This committee was charged with consider-

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ing "the most proper means for procuring an Act of the Legislature for amending the Charter of the University, either in conformity to the bill directed to be presented by the resolution of the Board of the 15th of February last, or with such alterations as may be found necessary."

Both Hamilton and L'Hommedieu were named to this committee. Hamilton had three allies—James Duane, John Jay and Assembly Speaker Richard Varick—while L'Hommedieu had only one, John Williams.

The committee reported on March 12 that it had made "some progress" but that it needed more time to work out differences. The differences were resolved three days later, when Hamilton advised the regents that the committee had agreed on a new bill that he and L'Hommedieu could support.

This bill was read, debated clause by clause, and approved. However, the regents minutes give no details other than to indicate that the board split over what role Clinton should play in the restructured university system. It was decided that the governor ought to be included among the Columbia trustees and the new regents. The one vote that was recorded at this meeting shows that Hamilton, L'Hommedieu, Robert Harpur and John Cochran tried to exclude Clinton from the college board. But they were overruled by Duane, Ebenezer Russell of Washington County, Thomas Jones of New York City and three Columbia faculty members then serving as regents. Nine other regents attended the meeting, among them Varick, Williams, Brockholst Livingston, John H. Livingston, John Rodgers and John Mason, but did not vote on this issue.

With Hamilton and L'Hommedieu no longer at odds, the Senate passed the legislation to overhaul the regents on March 20 after making only a few changes and giving the bill a new title, "An act to institute an University within this State and for other purposes therein mentioned." But the Assembly was unwilling to go along, initially at least, because of opposition to Hamilton spearheaded by John Lansing.

Lansing had been an apprentice in Duane's law office and Philip Schuyler's military secretary during the war. He remained on good personal terms with the general. But he never hit if off

with Hamilton, who once said of Lansing that "his friends mistook his talents when they made him a statesman." Clinton appointed Lansing mayor of Albany in 1786, thus putting him solidly in the governor's camp. Like Clinton, Lansing went on to oppose Hamilton's plan to create a strong national government.

On March 24, four days after the Senate had passed the compromise measure, Lansing tried to kill it in the Assembly. But the bill reached the floor seven days later, when two provisions were debated at length.

The first would have given the regents title to one lot of land in every town in New York and would have authorized them to use the proceeds of this land "for promoting literature in this State." Lansing objected, however, and the provision was defeated.

The second dealt with the chartering of colleges. Lansing wanted to have all colleges incorporated by the Legislature. But the Senate bill proposed to assign this function to the regents. The Senate provision read:

"And be it further enacted by the authority aforesaid, that any citizen or citizens, or bodies corporate within this State, being minded to found a college, at any place within the same, he or they shall, in writing, make known to the regents, the place where, the plan on which, and the funds with which it is intended to found and provide for the same; and who are proposed for the first Trustees; And in case the Regents shall approve thereof, then they shall declare their approbation by an instrument under their common seal, and allow a convenient time for compleating the same. And if at the expiration of the said time, it shall appear to the satisfaction of the Regents, that the said plan and propositions are fully executed, then they shall, by act, under their common seal, declare, that the said College, to be named as the founder shall signify, and with such Trustees, not exceeding twenty-four, nor less than ten, as they shall name, shall forthwith become incorporated, and shall have perpetual succession, and shall enjoy all the corporate rights and privileges enjoyed by Columbia College. . ."

This provision was also rejected at Lansing's urging. The vote was 23-19. Lansing drew his support primarily from Albany, Westchester, Dutchess and Montgomery counties, and Hamil-

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ton, backed by Varick, mostly from New York County plus Queens, Richmond and Suffolk. However, on April 6, with Lansing absent, Varick called upon the Assembly to reconsider its earlier vote. Lacking a strong leader to hold it together, the coalition forged by Lansing the week before came apart. This time, the vote was 27-12 to authorize the regents, not the Legislature, to incorporate colleges.

With this hurdle cleared, some amendments were introduced and agreed to, setting up a final Assembly vote on the Senate bill. But the regents were determined to leave nothing to chance. They thought the Assembly would be more disposed to pass the legislation if the members were invited to attend the Columbia graduation on April 10. So they extended a last-minute invitation to the ceremony. But the tactic almost backfired. The Assembly did agree to recess for a few hours to go to the college. But this decision came only after a heated debate that ended with a 34-17 vote in favor of accepting the regents' invitation.

The bill was passed by the Assembly the next day. It was then sent back to the Senate, which agreed to the amendments made by the Assembly, and became law on April 13 after gaining final approval from the Council of Revision.

The new law was nearly twice as long as the original statute of 1784 and contained 22 sections--some of them redundant—dividing different responsibilities among a new set of regents and separate boards of trustees for colleges and academies (schools were mentioned only once without elaboration).

Section I re-established the Regents of the University of the State of New York, but with important differences. There would be only 21 regents, none specifically identified with any county, religious denomination or educational institution, although no state resident could be excluded simply because he happened to be a government official or clergyman. The incumbent governor and lieutenant governor and their successors would be regents while they held those offices. But no other state office-holder was automatically made a board member. The 19 regents specifically named in the new law were L'Hommedieu, Jay, Schuyler, Rodgers, Russell, Egbert Benson, Nathan Carr, Peter Sylvester, Dirck Romeyn, James Livingston, Lewis Morris, Matthew

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Clarkson, Benjamin Moore, Eilardus Westerlo, Andrew King, William Lynn, Jonathan G. Tomkins, John McDonald, and Frederick William De Steuben. They would serve at the pleasure of the Legislature, which would pick their successors. The chancellor and vice chancellor would be chosen by the regents. A quorum would be eight board members. The regents could hold property up to a specified ceiling, set at the "annual Income of Forty Thousand Bushels of Wheat."

Section II provided for the regents to appoint a secretary to keep "a fair Journal of the Meetings and Proceedings of the Corporation" and a treasurer to keep "fair and true Accounts of all Moneys by him received and paid out."

Section III required the regents "to visit and inspect all the Colleges, Academies and Schools, which are or may be established in this State; examine into the State and System of Education and Discipline therein, and make a yearly Report thereof to the Legislature." They were also empowered "to make such Bye-Laws and Ordinances, not inconsistent with the Constitution and Laws of the State, as they may judge most expedient for the Accomplishment of the Trust hereby reposed in them." In addition, the regents could appoint a college president or academy principal on one condition, and only one—if the college or academy trustees had failed to make such an appointment "for the Space of one Year."

Section IV permitted the regents to award degrees "usually granted by any University or College in Europe" to persons they deemed worthy provided, however, these degrees were "above or beyond those of Bachelor or Master of Arts."

Section V authorized the regents to use land or funds they held "in such Manner as they may think most conducive to the Promotion of Literature, and the Advancement of useful Knowledge within this State," unless the money or property had been earmarked for some specific purpose by the donor.

Section VI directed the regents to meet at least twice each year, on the second Thursday after the Legislature had convened, and again "immediately after the Assembly shall have adjourned."

Section VII was the college charter provision that Lansing had opposed. It gave the regents the authority to grant the charters

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Be it enacted by the People of the State of New York represented in Senate and Assembly and it is hereby enacted by the Authority of the same That an University be and is hereby instituted and ordained by the Name or Style of the Regents of the University of the State of New York.

That the said Regents shall also appoint whose Manner of appointment by the Governor and Council hereby established shall always in certain other Cases be That the present Governor and Council and Governor and Lieutenant Governor [illegible] Regents Duncan Ingraham Egbert Benson Richard Harison Robert R. Livingston Jun. Anthony Lispenard Peter Van Gaasbeek Jacobus Van Zandt Peter Van Schaack John Jay Philip Schuyler Ezra L'Hommedieu William Cary Peter Irvine [illegible] shall be and they are appointed the first present Regents and that they the said Regents shall continue in office during the Pleasure of the Legislature That all Vacancies which hereafter may happen by Death or Removal or otherwise shall from time to time be supplied by the Legislature in the manner in which Regents to be originally appointed. That the said Regents assembled in any of the Apartments of the said State House in the City of New York shall appoint one of their Number Chancellor and one other of their Number Vice Chancellor to continue in Office during the Pleasure of the said Regents That the said Chancellor or in his Absence from the said Meeting the Vice Chancellor or in case both the Chancellor and Vice Chancellor be present shall preside at all Meetings of the said Regents and in the Absence of both the Chancellor and Vice Chancellor the Regents present shall appoint one of their Number to preside at such Meeting and in case of Division shall have a casting Voice at all such Meetings of the said Regents That all Meetings of the said Regents after the first shall be held at such time and place as the Chancellor or in case of the Death Absence or Resignation of the Vice Chancellor or in case of the Death Absence or Resignation of both of them Three at such time and place as the Regents present at the first Meeting shall appoint. And be it further enacted by the Authority aforesaid That it shall be the Duty of the Chancellor Vice Chancellor or senior Regent as the case may be of the above mentioned Regents to direct and call a Meeting of the said Regents whenever and as often as three Regents shall in Writing apply for and request the same such Order or Call to be published in one or more of the Public News Papers in the City of New York at least ten days prior to such Meeting. And be it further enacted that any right of the said Regents meeting at the time and place so ordered shall be as valid and effectual to all Intents and Purposes as the Business which they shall do shall be within the Right or Authority of the said Regents to do and transact. That the said University shall be and hereby is incorporated and shall be known by the Name of the Regents of the University of the State of

This portion of the 1787 statute reconstructing the Regents of The University of the State of New York shows the names of the new board members, including Ezra L'Hommedieu, John Jay and Philip Schuyler.

and provided that all new colleges would have the same "corporate rights and privileges" as Columbia.

Section VIII validated the King's College charter of 1754, except for several specific changes designed to make sure the college by-laws woulld not violate the religious and other liberties guaranteed by the new state constitution. A new college governing board, incorporated as the Trustees of Columbia College in the City of New York, was given control over the property that had been held by the King's College governors before the war and by the original regents after the war. However, the Columbia trustees were forbidden to require the college president to belong to a specific religious denomination or to prescribe "a Form of public Prayer to be used in the said College."

Section IX named the initial Columbia trustees. They were Hamilton, Duane, Varick, Harpur, Mason, John H. Livingston, Brockholst Livingston, Samuel Provoost, James Wilson, John Gano, John D. Gros, Johann Kunze, Walter Livingston, Lewis A. Scott, Joseph Delaplaine, Leonard Lispenard, Abraham Beach, John Laurance, John Rutherfurd, Morgan Lewis, John Cochran, Gershom Seixas, Charles McKnight, Thomas Jones, Malachi Treat, Samuel Bard, Nicholas Romayne, Benjamin Kissam, and Ebenezer Crosby. (Of the New York City bloc added to the original regents by Duane in 1784, all but Jay and Rodgers went over to the new Columbia board.) These trustees would be self-perpetuating. But the original number—29—was to be reduced to 24 by attrition.

Section X elaborated upon the right of the Columbia trustees to assume "the Power, Authority, Rights, Privileges, Franchises and Immunities" previously vested in the King's College governors.

Section XI entitled the college trustees to hold special meetings at the request of five or more board members "in some convenient place" in New York City.

Section XII established the regents' authority to incorporate and inspect academies as well as colleges. Academies anywhere in the state would be incorporated by the regents if the regents were satisfied that these institutions were "calculated for the

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Promotion of Literature" and if the academy trustees agreed to be "subject to the Visitation of the Regents."

Section XIII empowered academy trustees, like their college counterparts, to own and manage their property.

Section XIV authorized the academy trustees to hire and fire administrators and teachers and to make by-laws for the "Admission, Education, Government and Discipline of the Scholars or Students, and the Establishment of the Price or Terms of Tuition."

Section XV specified that any vacancies on academy boards would be filled by the remaining trustees.

Section XVI reiterated the regents' responsibility as visitors of the academies, saying "the Chancellor, Vice-Chancellor, or a committee of the Regents, shall, as often as they see proper, visit such Academies, to enquire into the State and Progress of literature therein."

Section XVII required all colleges to admit academy graduates to the sophomore, junior or even senior class, rather than as freshmen, if the academy graduates could score well on exams administered by the colleges.

Section XVIII directed academies to submit a plan of education to the regents "from Time to Time" and enabled the regents to amend such plans.

Section XIX allowed academies to be re-incorporated as colleges if the academy trustees could demonstrate to the regents that "the State of Literature in any Academy is so far advanced, and the Funds will admit thereof."

Section XX provided that no one could be denied a job as a college president or faculty member "by Reason of any religious Tenet or Tenets that he may or shall profess." It prohibited any faculty member from being a trustee of the college or academy that employed him. And it barred "any Trustee, President, Principal, Tutor, Fellow, or other Officer of any College or Academy" from serving as a regent simultaneously.

Section XXI specified that anyone who did wind up being made a regent and college or academy trustee at the same time would have to put in writing "in which of the said Places he will serve" and resign from the other.

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Section XXII repealed the acts of May 1 and November 26, 1784.

The Columbia trustees met for the first time a month later and picked Duane as the chairman of the college board. The new regents held their first meeting in July and elected Clinton as chancellor and Jay as vice chancellor.

The next regents meeting took place on November 17. At this meeting, the board granted its first two charters, one to Erasmus Hall and the other to Clinton Academy. In addition, three committees were appointed to visit Columbia, Erasmus Hall and Clinton Academy and to report to the full board on the "state of literature" at these three institutions. The regents assigned to visit Columbia were Jay, Rodgers, Moore, Lynn and Baron Steuben. Rodgers, Clarkson and Moore were chosen to visit Erasmus Hall. And L'Hommedieu was selected to visit Clinton Academy "with such others of the Regents as may think proper to attend."

Ten other academies were chartered by the board between 1787 and 1795, when the regents also incorporated New York's second college, Union College in Schenectady.

In 1793, meanwhile, the regents suggested to the Legislature that the state would benefit "from the institution of Schools in various parts of the State, for instructing our children in the lower branches of education; such as reading their native language with propriety and so much of writing and arithmetic as enable them when they come forward in active life to transact with accuracy and dispatch the business arising from their daily intercourse with each other." But the regents made no specific proposals for carrying out their suggestion.

A similar recommendation was made by the board in 1794, again without reference to how such schools would be funded or who would oversee them. Clinton, who was still governor and regents chancellor in 1795, followed up on these initiatives with a message to the Legislature in that year which said, in part:

"While it is evident that the general establishment and liberal endowment of academies are highly to be commended and are attended with the most beneficial consequences, yet it cannot be denied. . .that a great proportion of the community is excluded

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from their immediate advantages. The establishment of common schools throughout the state is happily calculated to remedy this inconvenience, and will, therefore, engage your early and decided consideration."

Mild as the governor's admonition sounded, the Legislature responded to it, approving New York State's first direct grant of aid to public education in April of the 1795 session. This law authorized an appropriation of $50,000 a year for five years "for the purpose of encouraging and maintaining schools in the several cities and towns in this State, in which the children of the inhabitants residing in this State shall be instructed in the English language or be taught English grammar, arithmetic, mathematics and such other branches of knowledge as are most useful and necessary to complete a good English education." The funds were divided among the counties, based on the number of representatives each county sent to the Legislature, for distribution to towns according to the number of taxable inhabitants.

With state support of public elementary education finally authorized, at least for five years, the regents submitted an annual report in 1795 written by De Witt Clinton, then secretary to the board, in which the governor's nephew concluded effusively:

"The Regents have now the superintendence of two Colleges and twelve academies and there are applications for two more Academies. These with the establishment of schools for the common branches of education. . . must soon have the most beneficial effects on the state of society. The streams issuing from these fountains must enrich *the pastures of the wilderness* and cause *the little hills to rejoice on every Side.*"

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THE REGENTS SINCE 1795

Despite the high hopes of De Witt Clinton as board secretary, education was not to flourish in New York State for many years to come, and the regents themselves continued to be challenged by independent-minded academicians as well as politicians, including some who would settle for nothing less than destroying the board.

Both George and De Witt Clinton had expected that common schools, academies and colleges would all fall under the jurisdiction of the regents. However, when the Legislature established the first permanent common school fund in the early 1800's, it selected the state school superintendent and empowered the superintendent to organize local school districts and distribute state aid to the districts, subject to review by the Senate and Assembly. The regents were thus bypassed and left in charge of academy and college education only.

At the outset, the division of state supervision by levels of education caused little difficulty, in practice anyway, since the same man, Gideon Hawley, held the offices of school superintendent and regents secretary concurrently. Hawley was an exceptionally able administrator. But the Legislature's Council of Appointment fired him in 1821 in order to open up the job of school superintendent for a political hack named Welcome Esleeck. The decision outraged so many New Yorkers that the Council of Appointment was abolished and Esleeck was forced out of office. The superintendent's duties were transferred to New York's secretary of state, in addition to his other duties. As the number of children in the lower grades grew, however, it became apparent that running schools was a full-time job. So the Legislature created a Department of Public Instruction in 1854. This department was headed by a superintendent of public instruction elected by a joint ballot of both houses.

Relations between the department and the regents deteriorated during the latter part of the 19th century as both laid

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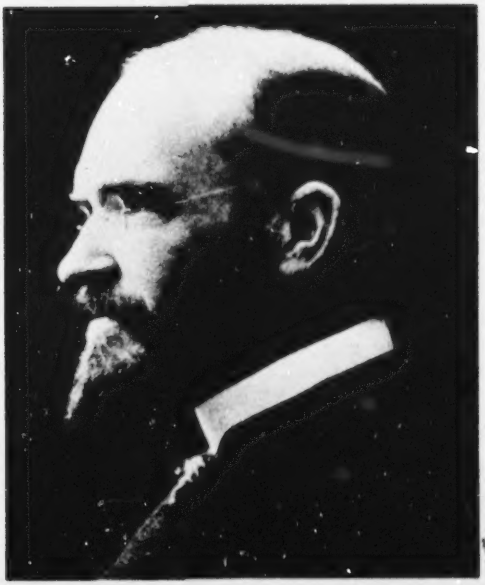

De Witt Clinton, left, and Melvil Dewey, right, were educational innovators and Regents secretaries a century apart.

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claim to supervision of newly emerging public high schools (the number of high schools exceeded the number of private academies only after the mid-1870's). The department was regarded as more in tune with the times since it promoted a broader academic program including practical courses, while the regents were perceived, not entirely without justification, as diehard defenders of the old classical curriculum and elitist private schools.

However, the regents did not even have firm control over private colleges or academies.

The board established minimum standards that had to be met before it would charter a college or academy, requiring among other things that the founders erect a "proper building" in advance and build up an endowment yielding at least a specified annual income. Founders of institutions that did not measure up to the regents' requirements turned to the Legislature instead and were often incorporated by accommodating lawmakers.

The regents also encountered resistance when they tried to carry out their 1787 statutory mandate to visit and inspect colleges, academies and schools. In 1823, for example, the Union College trustees refused to turn over information requested by the regents and were ready—although no such action was finally taken—to argue their case in the courts in the hope of gaining a narrow court definition of the board's powers of visitation. And four decades later, a Columbia faculty member told one regent in no uncertain terms that the regent would, in effect, be sent packing if he came onto the college campus in his capacity as a board member, rather than as an ordinary citizen.

During the last three decades of the 19th century, several efforts were made to end the worsening—and wasteful—wrangling between the regents and the Department of Public Instruction. It seemed for a while that the state government would simply do away with the regents, who were accused of being indifferent to public opinion because they had life tenure.

In 1870, the Legislature passed a bill that would have abolished the regents and reorganized New York's education system under the department. But Governor John Hoffman vetoed the measure without stating his reasons. Something similar happened 16

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years later, but this time it was the governor, David Hill, who wanted to put the ax to the board and the Legislature which saved it. Hill described the board as "a purely ornamental body" and concluded that being a regent amounted to no more than "a sort of pleasant retreat for respectable gentlemen of literary tendencies."

Hill's characterization of the regents as a do-nothing agency was soon to be disproved. The regents decided the time had come to bring in a new secretary with "modern" ideas about education. The title of secretary was deceptive. The man in the office would actually be the regents' grey eminence and, as such, responsible for making the board a power to be reckoned with going into the 20th century.

The choice, made in 1888, was Melvil Dewey, who had worked out his decimal classification for library books some years earlier. When the regents offered him the job, Dewey was on the verge of being fired from the post of Columbia librarian for admitting women to the School of Library Economy in violation of the trustees' men-only policy.

Once in Albany, Dewey put together an innovative "university extension" proposal to include the awarding of academic credit for knowledge gained outside the classroom. His plan was for the regents "to offer to young and old, rich and poor, male and female, free examinations with official recognition of creditable attainments, in all learning from the preliminary studies to the most advanced." In short, Dewey was prepared to award regents external degrees almost 80 years before they were actually granted.

It was the next-to-last governor who also served as a regent, Theodore Roosevelt, who finally paved the way for a compromise at the turn of the century. Roosevelt appointed a special commission to recommend steps that would lead to unification of the board and the department. In 1900, the commission proposed to continue the regents, although the number of board members would be reduced from 21 to 14, while the office of state superintendent of public instruction was to be abolished. However, the commission also recommended the creation of a Department of Education headed by an executive officer called "chancellor" who

would be appointed by the governor initially, with the approval of the Senate, for an eight-year term. From then on, the chancellor would be chosen by the regents.

The 1900 Legislature did not adopt the commission recommendations. But when a joint legislative committee was formed three years later to try once again to resolve the conflict, the committee reached strikingly similar conclusions.

This time legislation was introduced and adopted as the so-called Unification Act of 1904.

This new statute created an 11-member board of regents having ultimate control over all educational activities in the state. It ended the tradition of including the governor on the board. And it reaffirmed the authority of the Legislature to elect regents. But the new regents would serve staggered terms of 11 years, rather than remaining on the board indefinitely. The Department of Public Instruction was superseded by the State Education Department, and the offices of regents secretary and superintendent of public instruction were eliminated. Instead, the law provided for a single executive officer, the commissioner of education, who was elected by the Legislature for an initial six-year term and by the regents thereafter, serving at the regents' pleasure.

The statute did not contain a formula for establishing a close working relationship between the regents and the new commissioner. This had to be worked out between them. And this was done during the period in which Andrew Sloan Draper was the first commissioner and Whitelaw Reid, a distinguished journalist who became U.S. ambassador to Great Britain, was the regents chancellor. At the first meeting between Draper and the board members in 1904, an agreement was reached that the regents would exercise legislative authority and the commissioner executive authority. As Draper explained the precedent-setting understanding:

"We shall invite failure if we confuse legislative and executive functions. The people of a democracy prefer that policies shall be settled by more than one person; executive functions cannot be exercised effectively by a board. . .the only sound and logical course—the only course which promises agreeable relations and desirable results—lies in the exercise by the Board of full direc-

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tory authority and in the exercise by the Commissioner of free organizing and administrative powers over all the educational work of the State. If the law does not so arrange it, clearly we may easily have it so by entering into sympathy with one another. . ."

Today, the University of the State of New York comprises all the private and public colleges and universities in New York, as well as public and private elementary and secondary schools, libraries, museums, historical societies and other kinds of educational institutions and agencies. There are now 15 unsalaried lay men and women on the board serving seven-year terms, still by election by the Legislature. The regents continue to appoint the commissioner of education, who is also designated president of the University of the State of New York. The regents formulate educational policies and exercise general supervision of all educational activities within the state. They are responsible for the distribution of several billion dollars of state financial assistance in the form of both institutional and student aid. They have powers of incorporation. They accredit courses of study; prepare long-range plans to meet future educational needs; distribute library funds; supervise museums; certify teachers; grant external degrees; and license, discipline and establish standards for professionals in more than 20 fields, including physicians, dentists, nurses, psychologists, engineers, architects and certified public accountants.

Ultimately, however, it is the spirit, not the machinery, that constitutes the University of the State of New York.

It was Draper who also articulated the purpose of the state's educational organization as a unifying force when he said in 1904:

"It must do what it can to bind the upper schools, the middle schools and the lower schools together, to the end that the strength of each may support the others, and the waste of children's time and parents' money may be materially reduced. It must encourage the private schools as well as regulate the public schools, and it must esteem the small colleges as well as the great universities. It must give a helping hand to one who would write a book which may stimulate effort, and to one who would paint a picture which may draw out the finer feelings. This organization which we are perfecting, charged with the administration of

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educative activities of the first state in the Union, must stand for peace and unity. The measure of its success will be to the extent to which it is able to bring into cooperative effectiveness all the forces which make for the intellectual and moral quickening of all the men and women and all the boys and girls of the State. The spirit of this new movement must be unselfish; its instruments and methods must be above criticism; its distinct aim nothing short of the educational primacy of the commonwealth."

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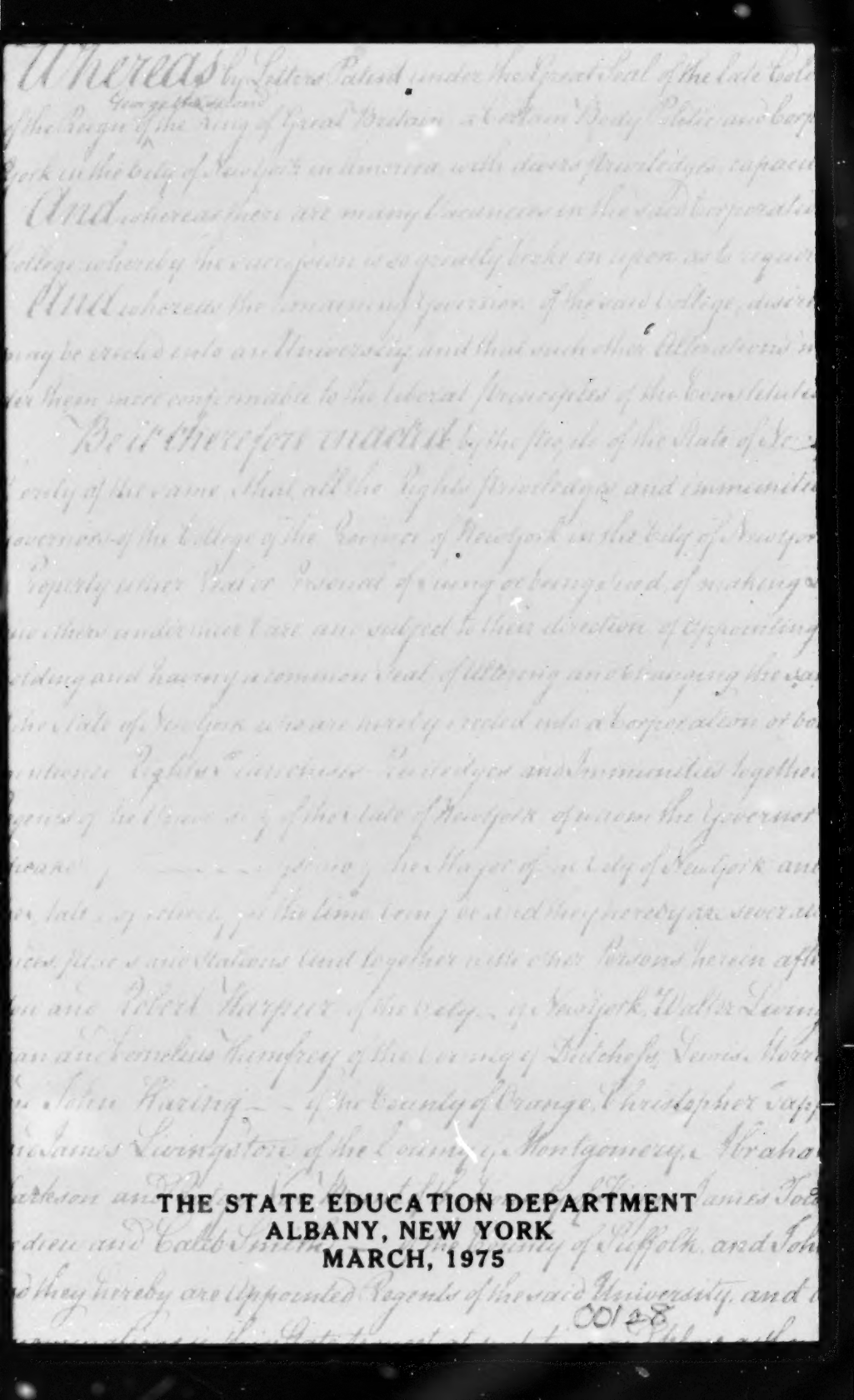

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